(17,474.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 360.

CHARLES F. CHAMPION, APPELLANT,

vs.

JOHN C. AMES, UNITED STATES MARSHAL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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a United States Circuit Court, Northern District of Illinois, Northern Division.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus*. 25236.

Joseph B. David and Moritz Rosenthal, attorneys for Charles F. Champion.

S. H. Bethea, United States attorney for the northern district of Illinois, for John C. Ames, United States marshal.

1 Pleas in the circuit court of the United States for the northern district of Illinois, northern division, begun and held at the United States court-room, in the city of Chicago, in said district and division, before the Honorable James G. Jenkins, circuit judge of the United States for the seventh judicial circuit, on Tuesday, the twenty-seventh day of June, in the year of our Lord one thousand eight hundred and ninety-nine, being one of the regular days of the December term of said court, 1898, and of our Independence the one hundred and twenty-third year.

S. W. BURNHAM, *Clerk*.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus*. 25236.

Be it remembered that on this day, to wit, the twenty-second day of June, in the year of our Lord one thousand eight hundred and ninety-nine, came Charles F. Champion, by his attorney, and filed in the clerk's office of said court a certain petition for writ of *habeas corpus*, and also for a writ of certiorari; which said petition is in the words and figures following, to wit:

2 UNITED STATES OF AMERICA, } ss:
State of Illinois, }

In the Circuit Court of the United States of America, Northern District of Illinois, Northern Division.

In the Matter of the Petition of CHARLES F. CHAMPION for Writ of *Habeas Corpus*.

To the Honorable Christian C. Kohlsaat, one of the judges of said court:

The petitioner, Charles F. Champion, a resident and citizen of the city of Chicago, Cook county and State of Illinois, respectfully shows to your honor that on the 28th day of February, A. D. 1899, one L. H. Farrish made complaint in writing before Charles H. Ledman, Esquire, a United States commissioner for the northern district of Texas, at Dallas, Texas, charging that your petitioner and one W. F. Champion and one C. B. Park did unlawfully conspire and agree together, in violation of section 5440 of the Revised Statutes of the

United States, to commit an offence against the United States, to wit, did, for the purpose of disposing of the same, transport and cause to be transported and did deposit for the purpose of being transported, at Dallas, in the State of Texas, to Fresno, in the State of California, one certain box and package of lottery tickets, advertisements, certificates, papers, and documents representing a ticket for a chance share and interest in and dependent upon the event of a certain lottery, called the Pan-American Lottery Company, at Paraguay, South America; that upon the filing of such complaint before said commissioner a warrant for apprehension and arrest of the parties therein named was issued by said commissioner; that upon the 3rd day of March, A. D. 1899, a certified copy of said complaint and said warrant was filed with Lewis F. Mason,
3 Esquire, a United States commissioner in and for the northern district of Illinois, upon which certified copy of said complaint the said commissioner, Lewis F. Mason, issued his warrant for the arrest and apprehension of the parties therein named, and upon said 3rd day of March, A. D. 1899, your petitioner, by the name and style of C. F. Champion, alias W. W. Ogden, was arrested upon said warrant issued by said Commissioner Mason, and brought before said commissioner, Lewis F. Mason, for examination; that thereupon the said cause was continued until the 14th day of March; that upon the 14th day of March, when said cause was called for hearing before said Commissioner Mason, the United States of America, by and through its attorney, abandoned the said charge of conspiracy, as set forth in said certified copy of the complaint filed before said Commissioner Mason, and then and there filed with said Mason an alleged amended complaint, in which one Richard Hudson was the complainant, which complaint charged that this petitioner alone, on or about the 15th day of February, A. D. 1899, at Dallas, in the northern district of Texas, unlawfully did cause to be carried and transferred by the Wells-Fargo Express Company from the State of Texas to the Territory of New Mexico divers tickets in and advertisement of a lottery, to wit, a lottery in the same tickets and advertisements, called the Pan-American lottery, and therein described as a lottery then being conducted by the Pan-American Lottery Company, with drawings monthly at Ascuncion, Paraguay, in violation of section 1 of the act of March 2nd, 1895, 2 Sup. Revised Statutes United States, 435; that a hearing was had upon said alleged amended complaint. The said commissioner, Lewis F. Mason, found that there was probable cause for believing your petitioner had committed the offence charged in said amended complaint, and thereupon ordered your petitioner to enter into recognizance, with sufficient surety in the sum of $1,000, for his appearance for trial on said charge at the May term of
4 the district court of the United States in the northern district of Texas, or, in default thereof, to be committed to jail; and your petitioner, not offering such recognizance, was thereupon remanded to the custody of John C. Ames, United States marshal for the northern district of Illinois, to be by him so held until discharged by due course of law.

Your petitioner further represents that on the 22nd day of March, A. D. 1899, the United States of America, by and through its attorney, Mr. S. H. Bethea, made application to the Honorable C. C. Kohlsaat, judge of the district court of said northern district of Illinois, for a warrant of removal of your petitioner to the northern district of Texas, under the provisions of section 1014 of the Revised Statutes of the United States, which warrant of removal was issued by said judge, and thereupon your petitioner sued out before the circuit court of the United States for the northern district of Illinois a writ of *habeas corpus*, which said writ commanded the said marshal, John C. Ames, to forthwith bring the body of your petitioner before the Honorable P. S. Grosscup, one of the judges of said court; that afterwards, on the 30th day of March, A. D. 1899, said cause being heard by the Honorable James G. Jenkins, one of the judges of the circuit court of the United States in and for said northern district of Illinois, — ordered that your petitioner be discharged upon said writ of *habeas corpus;* from which order of discharge the United States of America prayed for and obtained an appeal to the United States circuit court of appeals for the seventh circuit, which said appeal is now pending and undetermined in said court.

Your petitioner further represents that he is now restrained of his liberty by John C. Ames, Esquire, United States marshal in and for the northern district of Illinois, by virtue of a certain warrant of commitment issued by said Lewis F. Mason, United States commissioner in and for the northern district of Illinois, a copy of
5 which said warrant of commitment is hereto attached, marked "Exhibit A," and made a part of this petition; that said commitment was issued by reason of the filing before said Commissioner Mason on the 9th day of May, A. D. 1899, of a complaint made by G. H. Voss, charging this petitioner, one W. F. Champion, and one Charles B. Park with the violation of section 5440 of the Revised Statutes of the United States, in conspiring to commit an offence against the United States, to wit, to be caused to be carried from the State of Texas to other States, by express, lottery tickets and advertisements of a lottery, in violation of the act of Congress passed March 2nd, 1895—2 Supp. Revised Statutes of the United States, 435—and the hearing on said complaint; on which hearing a certified copy of an indictment found against your petitioner and said W. F. Champion and C. B. Park in and for the district court of the United States for the northern district of Texas, and a transcript of the record and proceedings of the case upon which your petitioner was originally arrested before said commissioner, as heretofore set forth, and tried, which said transcript is a record of the proceedings of the circuit court of the United States in and for the northern district of Illinois, upon the writ of *habeas corpus* heretofore set forth, upon which your petitioner was discharged by said circuit court, and which said cause is now pending on appeal in the United States circuit court of appeals for the seventh circuit, said transcript containing a record of all the proceedings in said cause from the time of the arrest of this petitioner until the time of the perfecting of the appeal by the United States from this petitioner's

discharge in said circuit court of the United States, and containing all the testimony and evidence heard before the United States commissioner or the circuit court of the United States, upon the charge of which your petitioner was discharged upon said writ of *habeas corpus*.

Your petitioner further shows that no other testimony or evi-
6 dence was heard by said commissioner, Lewis F. Mason, touching the charge for which he now stands committed, except as heretofore set forth, and that his detention by said United States marshal upon said commitment is solely by virtue of said complaint, certified copy of indictment, and transcript of the record of the cause now pending in the United States circuit court of appeals for the seventh circuit, as heretofore set forth.

Your petitioner attaches herewith a copy of the complaint filed before said commissioner, which is marked "Exhibit B" and made a part hereof; the warrant for the apprehension of your petitioner issued by said Commissioner Mason, which is marked "Exhibit C" and made a part hereof; a copy of the certified copy of the indictment filed with said commissioner, which is marked "Exhibit D" and made a part hereof, and said transcript of the record of the cause of The United States *vs.* C. F. Champion, now pending in the United States circuit court of appeals for the seventh circuit, which is marked "Exhibit E" and made a part hereof.

Your petitioner further shows, as set forth in the said complaint last filed with said Commissioner Mason, that the offence for which your petitioner is indicted is the same offence and the same transaction as that wherein your petitioner was heretofore discharged by the circuit court of the United States of the northern district of Illinois upon the writ of *habeas corpus*, as heretofore set forth.

Your petitioner further shows that the United States of America, by the complaint charging this petitioner with the offence of conspiracy last filed before said Commissioner Mason, contends that the offence for which your petitioner now stands indicted in the district court in the northern district of Texas is for the same offence and same transaction and based upon the same evidence upon which and for which your petitioner was discharged by said United States circuit court upon said writ of *habeas corpus* aforesaid.

Your petitioner further states upon credible information
7 and belief, which he believes to be true, that no other witness appeared before the grand jury of the district court for the northern district of Texas to testify against your petitioner for the commission of the alleged offence for which he was indicted except Thomas H. Nesmith, Clark Arnold, E. J. Riley, Richard Hudson, and G. E. Robinson, who are the same persons who testified before said Commissioner Mason upon the charge of which your petitioner was originally tried before said commissioner and discharged on *habeas corpus*, as heretofore set forth, and that such witnesses before said grand jury testified to the same facts, and no other, which they had previously testified to before said Commissioner Mason.

Your petitioner further shows that the said testimony of said wit-

nesses is to be found in the transcript of the record, hereto attached and marked "Exhibit E," from pages 14 to 46, inclusive; that the original complaint on which your petitioner was arrested on March 3, 1899, is to be found on pages 59 and 60 of said transcript of the record; that the alleged amended complaint made by Richard Hudson aforesaid is to be found on page 66 of said transcript of record; that the warrant of removal of said district court, as heretofore set forth, is to be found on page 8 of said transcript of the record.

Your petitioner further shows that his present detention on said warrant of commitment by said John C. Ames and his imprisonment thereunder is unjust and contrary to law for the following reasons:

First. The indictment found by the district court for the northern district of Texas is vague, uncertain, and indefinite, and does not charge an offence against any statute or law of the United States of America.

Second. The offence which it is alleged in said indictment your petitioner and said other accused persons conspired to com-
8 mit, to wit, the violation of section 1 of the act of Congress passed March 2nd, 1895—2 Supp. Revised Statutes United States, page 435—is not such an offence as the Congress of the United States had the right to create, and that Congress exceeded its power in passing the said statute, in that such power was not conferred upon Congress by the Constitution of the United States, and such statute is null and void.

Third. The statute last above mentioned, which created the offence which it is charged by said indictment and said complaint last filed before said Commissioner Mason your petitioner and said other accused persons conspired to violate, is unconstitutional and void and contrary to the first amendment to the Constitution of the United States, in that the same abridges the freedom of the press.

Fourth. There was no testimony of any kind or character heard by the grand jury of the district court of the United States for the northern district of Texas which found said indictment showing or tending in any way to show that the offence of conspiracy had been committed, or that your petitioner or any of said parties were party or parties to any such conspiracy.

Fifth. There was no testimony heard before the United States commissioner, Lewis F. Mason, upon whose warrant of commitment your petitioner is now being held, showing or tending to show that the offence of conspiracy, as charged in said indictment and said complaint, had been committed, or that your petitioner or any of the other accused persons were parties to any such conspiracy.

Sixth. There was no evidence of any kind or character heard by or presented to said Commissioner Mason showing or tending to show that there was probable cause for believing that your petitioner was guilty of the offence charged in said indictment or said complaint or any grounds or reason shown to said commissioner which warranted him in finding that there was probable cause for believing that your petitioner was guilty of the offence charged in said complaint or said indictment.

Seventh. There is no testimony of any kind or character within the possession or knowledge of the United States of America or its proper officers showing or tending to show that the offence of conspiracy was ever committed, as charged in the indictment heretofore set forth, or, if any such offence was committed, that your petitioner was a party thereto.

Eighth. If the offence charged in the indictment has been committed, it fully appeared before the United States Commissioner Mason, as shown by the transcript of the record of said cause now pending in the United States circuit court of appeals, as aforesaid, that at the time alleged when said offence of conspiracy was committed your petitioner could not have been a party to such alleged conspiracy, for the reason that he was not within the State of Texas or within the jurisdiction of the district court of the northern district of Texas, but was in the city of Chicago, Cook county, Illinois, and that he did not advise, aid, abet, assist, counsel, or incite said offence.

Your petitioner further shows that he is not restrained of his liberty by the said John C. Ames, United States marshal, by any other process of any kind or character excepting as hereinbefore set forth, and your petitioner shows that he is innocent of the crime or offence alleged against him in the said complaint and said indictment or of any crime or offence against the statutes and laws of the United States, and upon the hearing of the matter before this honorable court his innocence in the premises will be manifest.

Your petitioner further shows that it will be necessary for this honorable court to have before him all the proceedings before the said United States commissioner, said Lewis F. Mason, in the premises.

Your petitioner therefore prays that a writ of *habeas corpus* forthwith issue by order of this honorable court, pursuant to the Constitution of the United States of America and the laws thereof,

10 commanding the said John C. Ames, said United States marshal, forthwith to produce before your honor the body of this petitioner, Charles F. Champion, so that the cause and legality of his detention may be inquired into, and that upon the hearing of this petition this petitioner may be discharged from the custody of said John C. Ames, said United States marshal of the northern district of Illinois.

This petitioner prays that a writ of certiorari issue, pursuant to law, in aid of the writ of *habeas corpus*, forthwith commanding the said Lewis F. Mason, said United States commissioner, to bring before your honor all records and proceedings before him, the said Lewis F. Mason, said United States commissioner, touching the arrest, apprehension, examination, and committment of this petitioner in the premises, as hereinbefore set forth.

And your petitioner will ever pray, etc.

CHARLES F. CHAMPION.

JOSEPH B. DAVID AND
MORITZ ROSENTHAL,
Att'ys for Petitioner.

UNITED STATES OF AMERICA,
State of Illinois, Northern District of Illinois, County of Cook, } ss:

Before me, S. W. Burnham, clerk, personally appeared Charles F. Champion, the foregoing petitioner, well known to me to be the same person whose name is subscribed to the foregoing petition, and who, being first duly sworn, on oath says that he has read the foregoing petition by him subscribed, and that he knows the contents thereof, and that the same is true in substance and in fact.

S. W. BURNHAM, *Clerk.*

11 Let the writ of *habeas corpus* issue as prayed for, returnable before the Honorable James G. Jenkins, circuit court judge, on Tuesday, the 27th day of June, 1899, at ten o'clock a. m., and the petitioner, Charles F. Champion, may be enlarged upon his own recognizance in the sum of $1,000, upon depositing with the clerk of this court a certified check on the First national bank for the sum of $1,000, or the amount of $1,000 in cash, for his faithful observance of the condition of his recognizance and for his appearance on said 27th day of June, 1899, and from day to day, as aforesaid; and let the writ of certiorari issue as prayed for, commanding Lewis F. Mason, United States circuit court commissioner, to forthwith produce before this court all his records and proceedings in the case of The United States of America *vs.* Charles F. Champion *et al.*, in which case complaint was filed before said commissioner, Lewis F. Mason, on the 9th day of May, 1899.

Ent'd June 22, 1899.

KOHLSAAT, *J.*

12 EXHIBIT "A."

The President of the United States of America to the marshal of the northern district of Illinois and to the keeper of the common jail of the county of Cook, in said district, Greeting:

Whereas C. F. Champion has been apprehended and brought before the undersigned, Lewis F. Mason, a United States commissioner for the district aforesaid, for examination by virtue of a warrant of the said commissioner issued upon complaint made before him in writing, on oath, charging the said C. F. Champion with conspiring with others at Dallas, in the northern district of Texas, to commit an offense against the said United States, to wit, an offense denounced by the act of March 2, 1895 (2 Suppl. R. S., 435)—that is to say, to cause to be carried and transferred from one State to another of the said United States certain lottery tickets and advertisements, contrary to section 5440, R. S. U. S.;

And whereas on such examination there appears probable cause to believe the said C. F. Champion guilty of the said offense, and the undersigned commissioner as aforesaid has ordered the said C. F. Champion to enter into recognizance with sufficient surety in the sum of one thousand dollars for his appearance for trial on the said

charge at the January term of the district court of the United States for the northern district of Texas, or in default thereof to be committed to jail; and whereas the said C. F. Champion has not offered such recognizance: Now, therefore, you, the said marshal, are hereby commanded that you convey the said C. F. Champion to the said jail; and you, the said keeper, are hereby commanded that you receive the said —— —— into the said jail, and him there safely keep until he be discharged therefrom by due course of law.

Witness the hand and seal of the said commissioner at Chicago aforesaid, in the said division and district, this 22nd day of
13 June, A. D. 1899, and of the Independence of the said United States the 123 year.

(Signed) LEWIS F. MASON,
U. S. Commissioner.

(Endorsed:) No. —. Northern district of Illinois, northern division. Before Lewis F. Mason, U. S. commissioner. The United States of America *vs.* C. F. Champion. Mittimus. Bail, $1,000.00. (Signed) Lewis F. Mason, U. S. commissioner.

14 EXHIBIT "B."

THE UNITED STATES OF AMERICA,
Seventh Circuit, Northern District of Illinois, Northern Division, } *sct:*

On this ninth day of May, A. D. 1899, at the city of Chicago, in the northern division of the northern district of Illinois, before Lewis F. Mason, a commissioner of the United States for the said district, comes G. H. Voss, of the city of Chicago and of said division and district, who, being duly sworn, upon his oath complains and says that on, to wit, the first day of February, 1899, in Dallas county, Texas, in the northern district of Texas, C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park did then and there unlawfully, knowingly, and feloniously conspire together to commit an offense against the United States, to wit, for the purpose of disposing of the same, to cause to be carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Fresno, in the State of California, certain papers, certificates, and instruments purporting to be and representing tickets, as they then and there well knew, chances, shares, and interests in and dependent upon the event of a lottery thereafter to take place, offering prizes dependent upon lot and chance—that is to say, caused to be carried, as aforesaid, for the purpose of disposing of the same, papers, certificates, or instruments purporting to be tickets to represent the chances, shares, and interests in the prizes which by lot and chance might thereafter be awarded to persons to this complainant unknown who might purchase said papers, certifi-
15 cates, or instruments representing and purporting to be tickets, as aforesaid, with the numbers thereon shown and indicated and printed, which by lot and chance should, on a certain

day thereafter, draw a prize or prizes at the purported lottery of chance company, to wit, at the purported monthly drawing of the so-called Pan-American Lottery Company, which purported to draw monthly at Ascuncion, Paraguay, which said Pan-American Lottery Company purported to be an enterprise offering prizes dependent upon lot and chance, the specific method of such drawing being unknown to this complainant, but which said papers, certificates, and instruments purporting to be and representing tickets upon their face purporting to be entitled to participation in the drawing for a certain capital prize amounting to the sum of thirty-two thousand dollars, and which said drawings for said capital prize or the part or parts thereof allotted or to be allotted, in conformity with the scheme of lot or chance, were to take place monthly, the manner and form of which is to this complainant unknown, but that said drawing and lot and chance by which said prize or prizes were to be drawn was purported to be under the supervision and direction of Enrigue Montes de Leon, manager, and Bernardo Lopez, intervenor, and which said papers, certificates, and instruments purporting to be tickets of the said Pan-American Lottery Company were so divided as to be called whole, half, quarter, and eighth tickets, the whole tickets to be sold for the sum of two dollars, the half tickets for the sum of one dollar, the quarter tickets for the sum of fifty cents, and the eighth tickets for the sum of twenty-five cents.

And the said complainant aforesaid on his oath aforesaid does further state that, in pursuance of said conspiracy and to
16 effect the object thereof, to wit, for the purpose of causing to be carried from one State to another in the United States, to wit, from the State of Texas to the State of California aforesaid, for the purpose of disposing of the same, papers, certificates, and instruments purporting to be and representing tickets, chances, and shares and interests in and dependent upon the event of a lottery, to wit, the Pan-American Lottery Company, offering prizes dependent upon lot and chance, as aforesaid, as they then and there well knew, said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park did then and there, to wit, on or about the day last aforesaid, in the year 1899, in the county of Dallas aforesaid, in the Dallas division of the northern district of Texas aforesaid, unlawfully, knowingly, and feloniously, for the purpose of being carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Fresno, in the State of California, for the purpose of disposing of the same, deposit and cause to be deposited and shipped and carried with and by the Wells-Fargo Express Company, a corporation engaged in carrying freight and packages from station to station along and over lines of railway and from Dallas, Texas, to Fresno, California, for hire, one certain box or package containing, among other things, two whole tickets or papers or certificates of said purported Pan-American Lottery Company, one of which said whole tickets is attached to and made a part of page three of Exhibit A, hereto attached, and the other said whole tickets being like the one aforesaid attached to Exhibit A in all particu-

lars except that it differs in numbers; and also six half tickets of said purported Pan-American Lottery Company, one of which is attached to page three of Exhibit A, hereto annexed, and
17 — other five of said half tickets being in kind like unto the one last mention- and attached as aforesaid to said Exhibit A, differing only in numbers; and also ten quarter tickets of said purported Pan-American Lottery Company, one of which is annexed to page four of said Exhibit A, and the other nine tickets being like unto the one attached to page four of said Exhibit A, differing only in numbers; also twenty tickets, denominated eight-s, of said purported Pan-American Lottery Company, one of which is also annexed to page four of Exhibit A, hereto attached, and the other nineteen of such eight-s tickets being like unto the one last above mentioned attached as aforesaid to page four of said Exhibit A, differing only in numbers, and said box so containing the said certificates or tickets being addressed and consigned by the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park to James A. Ward, Fresno, California, which was so addressed and so deposited with the said express company for the purpose of being carried from Dallas, in the State of Texas, to Fresno, in the State of California, and there delivered to James A. Ward for the purpose of disposing of said above-mentioned lottery tickets, and which said tickets—wholes, halves, quarters, and eight-s—purported upon their face to entitle the holder thereof to so much of such prize of thirty-two thousand dollars as the denomination of such tickets might be entitled to in the event the number upon such ticket at said drawing, which purported to take place on Wednesday, March 15, 1899, should be allotted the prize, or any part thereof, according to lot or chance, the peculiar and particular manner of which is to this complainant unknown, all of
18 which the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Second count. And the said complainant, G. H. Voss, being duly sworn, as aforesaid, on his oath doth further state that on, to wit, the first day of February, 1899, in Dallas county, Texas, in the northern district of Texas, C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park did then and there unlawfully, feloniously, and knowingly conspire together to commit an offense against the United States, to wit, for the purpose of disposing of the same, to cause to be carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Ogden, in the State of Utah, certain papers, certificates, and instruments purporting to be and representing tickets, as they then and there well knew, chances, shares, and interest- in and dependent upon the event of a lottery thereafter to take place, offering prizes dependent upon lot and chance—that is to say, caused to be carried, as aforesaid, for the purpose of disposing of the same, papers, certificates, or instruments purporting to be tickets to represent the chances, shares, and interests in the prizes which by lot and chance might thereafter be

awarded to persons to this complainant unknown who might purchase said papers, certificates, and instruments representing and purporting to be tickets, as aforesaid, with the numbers thereon shown and indicated and printed, which by lot and chance should on a certain day thereafter draw a prize or prizes at the
19 purported lottery or chance company, to wit, at the purported monthly drawing of the so-called Pan-American Lottery Company, which purported to draw monthly at Ascuncion, Paraguay, which said Pan-American Lottery Company purported to be an enterprise offering prizes dependent upon lot and chance, the specific method of such drawing being unknown to this complainant, but which said papers, certificates, and instruments purporting to be and representing tickets upon their face purporting to be entitled to participation in the drawing for a certain capital prize amounting to the sum of thirty-two thousand dollars, and which said drawings for said capital prize or the part or parts thereof allotted or to be allotted in conformity with the scheme or lot and chance were to take place monthly, the manner and form of which is to the complainant unknown, but that said drawing and lot and chance by which said prize or prizes were to be drawn was purported to be under the supervision and direction of Enrigue Montes de Leon, manager, and Bernardo Lopez, intervenor, and which said papers, certificates, and instruments purporting to be tickets of the said Pan-American Lottery Company were so divided as to be called whole, half, quarter, and eighth tickets, the whole tickets to be sold for the sum of two dollars, the half tickets for the sum of one dollar, the quarter tickets for the sum of fifty cents, and the eight- tickets for the sum of twenty-five cents.

And the said complainant on his oath doth further state that in pursuance of said conspiracy and to effect the object thereof, to wit, for the purpose of causing to be carried from one State to another in the United States, to wit, from the State of Texas to the State of Utah aforesaid, for the purpose of disposing of the same,
20 papers, certificates, and instruments purporting to be and representing tickets, chances, and shares and interests in and dependent upon the event of a lottery, to wit, the Pan-American Lottery Company, offering prizes dependent upon lot and chance, as aforesaid, as they then and there well knew, said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park did then and there, to wit, on or about the day last aforesaid, in the year 1899, in the county aforesaid, in the Dallas division of the northern district of Texas aforesaid, unlawfully, knowingly, and feloniously, for the purpose of being carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Ogden, in the State of Utah, for the purpose of disposing of the same, deposit and cause to be deposited and shipped and carried with and by the Wells-Fargo Express Company, a corporation engaged in carrying freight and packages from station to station along and over lines of railway from Dallas, Texas, to Ogden, Utah, for hire, one certain box or package, containing, among other things, two whole tickets or papers or certificates of said purported Pan-American

Lottery Company, one of which said whole tickets is attached to page seven of Exhibit A and made a part of said Exhibit A, and the other said whole tickets being like the one last aforesaid attached, as aforesaid, to page seven of said Exhibit A in all particulars, except that it differs in numbers; also six half tickets of said purported Pan-American Lottery Company, one of which is annexed to page seven of said Exhibit A and made a part thereof, the other five of said half tickets being in kind like unto the one last aforesaid attached, as aforesaid, to page seven of Exhibit A, as
21 aforesaid, differing only in numbers; also twenty tickets, denominated eighths, of said purported Pan-American Lottery Company, one of which is annexed to page eight of Exhibit A and made a part thereof, the other nineteen of such eighths tickets being like unto the one attached, as aforesaid, to page eight of Exhibit A, as aforesaid, differing only in numbers, and the said box so containing the said certificates or tickets being addressed and consigned by the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park to Livingston & Blosser, 2477 Washington avenue, Ogden, Utah, which was so addressed and so deposited with the said express company for the purpose of being carried from Dallas, in the State of Texas, to Ogden, in the State of Utah, and there delivered to Livingston & Blosser for the purpose of disposing of such above-mentioned lottery tickets, and which said tickets, wholes, halves, quarters, and eighths purported upon their face to entitle the holder thereof to so much of said prize of thirty-two thousand dollars as the denomination of such tickets might be entitled to in the event the number upon such ticket at said drawing, which purported to take place on, to wit, Wednesday, March 15th, 1899, should be allotted the prize or any part thereof according to lot or chance, the peculiar and particular manner of which is to the complainant unknown, all of which the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And so the complainant, G. H. Voss, aforesaid on his oath aforesaid doth further state that the offense set out in section 5440
22 of the Revised Statutes of the United States, which is as follows:

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be liable to a penalty of not less than one thousand dollars and not more than ten thousand dollars, and to imprisonment not more than two years."

has been committed, and that the offense which the defendant-, C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park, conspired to commit is set forth and defined in the act for the suppression of lottery traffic through national and interstate com-

merce and the postal service, subject to the jurisdiction and laws of the United States, which was passed on March 2, 1895; and the said complainant on his oath further states that he has just and reasonable grounds to believe and does believe that C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park committed said offense, and the grounds and reasons for his belief are the fact that the grand jury for the United States for the northern district of Texas has found an indictment against said defendants for said crime, a certified copy of which is hereto attached and made a part of this complaint and marked Exhibit A, and the further fact that the complainant was present at the examination of the defendant Charles F. Champion before Commissioner Lewis F. Mason, when the said defendant was charged with the violation of the said act of March 2, 1895, in which proceeding the same acts of the said defendants were relied upon for conviction as are relied upon in this case, and this complainant heard all of the testimony and statements of the witnesses produced upon the hearing
23 and all of the evidence introduced thereon, and that afterwards he was present at the subsequent proceedings in reference thereto and heard what was presented before the courts and the opinion of Judge Jenkins in his final disposition of the *habeas corpus* proceedings in reference to said offense. A copy of the record of all of said proceedings before said commissioner and before the courts and judges of the United States is hereto attached and marked Exhibit B and made a part of this complaint; which said copy contains a true and correct recital of all that transpired in reference to said offense; and this complainant further states that the said proceedings, a copy of which is hereto attached and marked Exhibit B, took place before the finding of the indictment shown by Exhibit A.

Wherefore this complainant prays that the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park may be apprehended and further dealt with according to law.

(Signed) G. H. VOSS.

Subscribed and sworn to before me by the above-named G. H. Voss the day and year first above written.

(Signed) LEWIS F. MASON,
[SEAL.] *Commissioner.*

Approved:

U. S. Att'y, N. Dist. Ill.

24 EXHIBIT C.

The President of the United States of America to the marshal of the northern district of Illinois:

Whereas complaint in writing on oath has been made to the undersigned, Lewis F. Mason, a United States commissioner for the district aforesaid, charging that C. F. Champion, alias W. W. Ogden,

W. F. Champion, Charles B. Parks, on or about the first day of February, A. D. one thousand 899, at Dallas, Texas, within the Waco division of the northern district of Texas, did violate the laws of the United States, to wit, section 5440 as amended and act of March 2nd, 1895, third session, 53rd Congress, did conspire together to commit an offense against the United States, to wit, for the purpose of disposing — the same, to cause to be carried from one State to another in the United States, to wit, from Dallas, Texas, to Fresno, in the State of California, certain papers, certificates, & instruments purporting to be and representing tickets, as they then and there well knew, chances, shares, & interest- in — dependent upon the event of a lottery thereafter to take place on a certain day at the purported monthly drawing of the so-called Pan-American Lottery Company:

Now, therefore, you are hereby commanded that you take the said C. F. Champion, alias W. W. Ogden, W. F. Champion, Charles B. Park, (if they be found within your district) and them safely keep, so that you have *his* bodies forthwith before the undersigned, commissioner as aforesaid, at his office, in Chicago, in the
25 said district (or, in case of his absence or inability to act, before any other United States commissioner or judicial officer having jurisdiction), in order that the said C. F. Champion, alias W. W. Ogden, W. F. Champion, & C. B. Park may be dealt with according to law; and have you then and there this writ with a return of your doings hereon.

Witness the hand and seal of the said commissioner, at Chicago aforesaid, this 10th day of May, A. D. one thousand 899, and of the Independence of the United States the 123 year.

[SEAL.]
[L. S.]

LEWIS F. MASON.
U. S. Commissioner.

Endorsed: Return. Received this warrant on the 10th day of May, 1899, at Chicago, and executed the same by arresting the within-named C. F. Champion, at Chicago, the 10th day of May, 1899, and have his body now in court, as within I am commanded. Dated Chicago, Ill., May 10th, 1899. John C. Ames, U. S. marshal, by C. W. Walser, deputy. Filed Jun- 22, 1899. S. W. Burnham, clerk.

26 "EXHIBIT D."

THE UNITED STATES OF AMERICA, *Northern District of Texas,* } *To wit:*

In the District Court of the United States within and for the Northern District of Texas.

(First count, 5440, as amended, and act March 2nd, 1895, third session, 53rd Congress.)

In the name and by the authority of the United States of America: The grand jurors of the United States within and for the district aforesaid, at Waco, division of said district, duly selected, im-

panelled, sworn, and charged to inquire into and true presentment make of all crimes and offenses cognizable under the authority of the United States committed within said northern district of Texas, upon their oaths present in open court that before the filing and presentment of this indictment, to wit, on or about the 1st day of February, A. D. 1899, in Dallas county, Texas, in the northern district of Texas and within the jurisdiction of this court, C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park did then and there unlawfully, knowingly, and feloniously conspire together to commit an offense against the United States, to wit, for the purpose of disposing of the same, to cause to be carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Fresno, in the State of California, certain papers, certificates, and instruments purporting to be and representing tickets, as they then and there well knew, chances, shares, and interests in and dependent upon the event of a lottery, offering prizes dependent upon lot and chance—that is to say,

caused to be carried, as aforesaid, for the purpose of disposing of the same, papers, certificates, or instruments purporting to be tickets to represent the chances, shares, and interests in the prizes which by lot and chance might be awarded to persons, to these grand jurors unknown, who might purchase said papers, certificates, and instruments representing and purporting to be tickets, as aforesaid, with the numbers thereon shown and indicated and printed, which by lot and chance should, on a certain day, draw a prize or prizes at the purported lottery or chance company, to wit, at the purported monthly drawing of the so-called Pan-American Lottery Company, which purported to draw monthly at Ascuncion, Paraguay, which said Pan-American Lottery Company purported to be an enterprise offering prizes dependent upon lot and chance, the specific method of such drawing being unknown to the grand jurors, but which said papers, certificates, and instruments purporting to be and representing tickets upon their face purporting to be entitled to participation in the drawing for a certain capital prize amounting to the sum of thirty-two thousand dollars, and which said drawings for said capital prize, or the part or parts thereof allotted or to be allotted in conformity with the scheme of lot and chance, were to take place monthly, the manner and form of which is to the grand jurors unknown, but that said drawing and lot and chance by which said prize or prizes were to be drawn was purported to be under the supervision and direction of Enrigue Montes de Leon, manager, and Bernardo Lopez, intervenor, and which said papers, certificates, and instruments purporting to be tickets of the said Pan-American Lottery Company

were so divided as to be called whole, half, quarter, and eighth tickets, the whole tickets to be sold for the sum of two dollars, the half tickets for the sum of one dollar, the quarter tickets for the sum of fifty cents, and the eighth tickets for the sum of twenty-five cents.

And the grand jurors upon their oaths aforesaid do further present that in pursuance of said conspiracy and to effect the object

thereof, to wit, for the purpose of causing to be carried from one State to another in the United States, to wit, from the State of Texas to the State of California aforesaid, for the purpose of disposing of the same, papers, certificates, and instruments purporting to be and representing tickets, chances, and shares and interests in and dependent upon the event of a lottery, to wit, the Pan-American Lottery Company, offering prizes dependent upon lot and chance, as aforesaid, as they then and there well knew, said W. F. Champion and Charles B. Park did then and there, to wit, on or about the date last aforesaid, in the year 1899, in the county aforesaid, in the Dallas division of the northern district of Texas aforesaid, unlawfully, knowingly, and feloniously, for the purpose of being carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Fresno, in the State of California, for the purpose of disposing of the same, deposit and cause to be deposited and shipped and carried with and by the Wells-Fargo Express Company, a corporation engaged in carrying freight and packages from station to station along and over lines of railway and from Dallas, Texas, to Fresno, California, for hire, one certain box or package containing, among other things, two whole tickets or papers or certificates of said purported Pan-American Lottery Company, one of which said whole tickets is hereto annexed by the
29 & 30 grand jury to this indictment and made a part hereof, for the reason that the same has much printed matter that is improper and too lengthy to set out in this indictment accurately, and for that reason the tickets is annexed hereto in its entirety:

Whole, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Drawe monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

1530. [3127.]* This whole ticket entitles the holder thereof to the whole of said prize as may be drawn by the number in the within-named drawing if presented before the expiration of three months from the date of said drawing. Three, cipher, five, four, five. 30545.

Two dollars.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Fernando Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

[*Words and figures enclosed in brackets erased in copy.]

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
300 prizes	10	6,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

31

Terminals.

999 prizes	$10	9,990
999 prizes	10	9,990
999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.

Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

And the other said whole tickets being like the one hereto annexed in all particulars except that it differs in numbers; also six half tickets of said purported Pan-American Lottery Company, one of which is heret annexed in its entirety, for the reason that the grand jurors are unable to accurately describe the same because of the printing and cuts thereon contained, the other five of said half tickets being in kind like unto the one hereto attached in its entirety and made a part hereof:

32

Half, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

This half ticket entitles the holder thereof to the half of said prize as may be drawn by the number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

Eight, five, three, six, seven.
[Two, six, four, seven, three.]*
[26473.]*
85367.

3999. [2447.]*

One dollar.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Fernando Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500 prizes	10	6,000

[* Words and figures enclosed in brackets erased in copy.]

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

33 *Terminals.*

999 prizes	$10	9,990
999 prizes	10	9,990
999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE LOPEZ, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

differing only in numbers; also ten quarter tickets of said purported Pan-American Lottery Company, one of which is hereto annexed in its entirety. Because of the printing and cuts thereon it would be impossible and improper for the grand jurors to fully set the same out otherwise, the other nine tickets being like unto the one hereto annexed in its entirety and made a part hereof:

34

Quarter, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

This quarter ticket entitles the holder thereof to the quarter of said prize as may be drawn by the number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

Six, five, eight, nine, three.
[Five, cipher, nine, two, seven.]*
[50927.]*
65893.

4467.
4461.

50 cents.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Fernando Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500 prizes	10	6,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

35

Terminals.

999 prizes	$10	9,990
999 prizes	10	9,990
999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

[* Words and figures enclosed in brackets erased in copy.]

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE LOPEZ, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

differing only in numbers; also twenty tickets denominated eight-s of said purported Pan-American Lottery Company, one of which is annexed hereto in its entirety and made a part of this indictment, because the grand jurors are unable to accurately describe the same by reason of the great amount of printed matter and cuts thereon contained, the other nineteen of such eighths tickets being like unto the one hereto attached and annexed in its entirety and made a part hereof:

36

Eighth, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

5334. [6319.]*

This eighth ticket entitles the holder thereof to the eighth of said prize as may be drawn by the number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

Five, one, eight, cipher, cipher. [Five, four, two, seven, eight.]* [54278.]* 51800.

25 cents.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

[* Words and figures enclosed in brackets erased in copy.]

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Fernando Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500 prizes	10	6,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

37

Terminals.

999 prizes	$10	9,990
999 prizes	10	9,990
999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE LOPEZ, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

38 differing only in numbers, and said box so containing the said certificates or tickets being addressed and consigned by the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park to James A. Ward, Fresno, California, which was so addressed and so deposited with the said express company for the purpose of being carried from Dallas, in the State of Texas, to Fresno, in the State of California, and there delivered to James A. Ward, for the purpose of disposing of such above-mentioned lottery tickets, and which said tickets—wholes, halves, quarters, and eighths—purported upon their face to entitle the holder thereof to so much of such prize of thirty-two thousand dollars as the denomination of such tickets might be entitled to in the event the number upon such ticket at said drawing, which purported to take place on Wednesday, March 15th, 1899, should be allotted the prize or any part thereof, according to lot or chance, the peculiar and particular manner of which is to the grand jurors unknown, all of which the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Second count. The grand jurors aforesaid, duly selected, impanelled, sworn, and charged, as aforesaid, further present into open court that before the filing and presentment of this indictment, to wit, on or about the first day of February, A. D. 1899, in Dallas county, Texas, in the northern district of Texas and within the jurisdiction of this court, C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park did then and there unlawfully, knowingly, and feloniously conspire together to commit an offense against the United States, to wit, for the purpose of disposing of the same, to cause to be carried from one State to another in the United States, to wit, from Dallas, in the State of Texas,
39 to Ogden, in the State of Utah, certain papers, certificates, and instruments purporting to be and representing tickets, as they then and there well knew, chances, shares, and interests in and dependent upon the event of a lottery, offering prizes dependent upon lot and chance—that is to say, caused to be carried, as aforesaid, for the purpose of disposing of the same, papers, certificates, or instruments purporting to be tickets to represent the chances, shares, and interests in the prizes which by lot and chance might be awarded to persons to these grand jurors unknown who

might purchase said papers, certificates, and instruments representing and purporting to be tickets, as aforesaid, with the numbers thereon shown and indicated and printed which by lot and chance should on a certain day draw prize or prizes at the purported lottery or chance company, to wit, at the purported monthly drawing of the so-called Pan-American Lot-ery Company, which purported to draw monthly at Ascuncion, Paraguay, which said Pan-American Lottery Company purported to be an enterprise offering prizes dependent upon lot and chance, the specific method of such drawing being unknown to the grand jurors, but which said papers, certificates, and instruments purporting to be and representing tickets upon their face purporting to be entitled to participation in the drawing for a certain capital prize amounting to the sum of thirty-two thousand dollars, and which said drawings for said capital prize or the part or parts thereof allotted or to be allotted in conformity with the scheme or lot and chance were to take place monthly, the manner and form of which is to the grand jurors unknown, but that said drawing and lot and chance by which said prize or prizes were to be drawn was purported to be under the supervision and direction of Enrique Montes de Leon, manager, and Bernardo Lopez, intervenor, and which said papers, certificates, and instruments purporting to be tickets on the said Pan-American Lottery Company were so divided as to be called whole, half, quarter, and eighth tickets, the whole tickets to be sold for the sum of two dollars and half tickets for the sum of one dollar, the quarter tickets for the sum of fifty cents and the eighth tickets for the sum of twenty-five cents.

And the grand jurors upon their oaths aforesaid do further present that in pursuance of said conspiracy and to effect the object thereof, to wit, for the purpose of causing to be carried from one State to another in the United States, to wit, from the State of Texas to the State of Utah aforesaid, for the purpose of disposing of the same, papers, certificates, and instruments purporting to be and representing tickets, chances, and chares and interests in and dependent upon the event of a lottery, to wit, the Pan-American Lottery Company, offering prizes dependent upon lot and chance, as aforesaid, as they then and there well knew, said W. F. Champion and Charles B. Park did then and there, to wit, on or about the day last aforesaid, in the year 1899, in the county aforesaid, in the Dallas division of the northern district of Texas aforesaid, unlawfully, knowingly, and feloniously, for the purpose of being carried from one State to another in the United States, to wit, from Dallas, in the State of Texas, to Ogden, in the State of Utah, for the purpose of disposing of the same, deposit and cause to be deposited and shipped and carried with and by the Wells-Fargo Express Company, a corporation engaged in carrying freight and packages from station to station along and over lines of railway and from Dallas, Texas, to Ogden, Utah, for hire, one certain box or package containing, among other things, two whole tickets or papers or certificates of said purported Pan-American Lottery Company, one of which said whole tickets is hereto annexed by the grand jury to this indictment and

made a part hereof for the reason that the same has much printed matter that is improper and too lengthy to set out in this indictment accurately, and for that reason the ticket is annexed hereto in its entirety:

41 Whole, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

1530. [1523.]* This whole ticket entitles the holder thereof to the whole of such prize as may be drawn by its number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

Four, cipher, five, one, seven.
[One, five, five, eight, cipher.]*
[15580.]*
40517.

Two dollars.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Barnardo Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500	10	5,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

[* Words and figures enclosed in brackets erased in copy.]

Terminals.

999 prizes	$10	$9,990
999 prizes	10	9,990
42		
999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

43 and the other said whole tickets being like the one hereto annexed in all particulars except that it differs in numbers; also six half tickets of said purported Pan-American Lottery Company, one of which is hereto annexed in its entirety, for the reason that the grand jurors are unable to accurately describe the same because of the printing and cuts thereon contained, the other five of said half tickets being in kind like unto the one hereto attached in its entirety and made a part hereof:

44

Half, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

2477. [2411.]*

This half ticket entitles the holder thereof to the half of such prize as may be drawn by its number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

One, four, cipher, four, one.
Three, [six, four, four, five.]*
[36445.]*
14041.

One dollar.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Barnardo Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500	10	5,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

Terminals.

999 prizes	$10	$9,990
999 prizes	10	9,990

45

999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

[* Words and figures enclosed in brackets erased in copy.]

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following nationals banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

46 differing only in numbers; also ten quarter tickets of said purported Pan-American Lottery Company, one of which is hereto annexed in its entirety, because of the printing and cuts thereon it would be impossible and improper for the grand jurors to fully set out the same otherwise, the other nine tickets being like unto the one hereto annexed in its entirety and made a part hereof:

47 Quarter, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

This quarter ticket entitles the holder thereof to the quarter of such prize as may be drawn by its number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

Five, cipher, nine, two, one.
[Five, three, four, two, cipher.]*
[54320.]*
50921.

4455.
[4161.]*

50 cents.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

[* Words and figures enclosed in brackets erased in copy.]

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Barnardo Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500	10	5,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

Terminals.

999 prizes	$10	$9,990
999 prizes	10	9,990
48		
999 prizes	4	3,996
999 prizes	4	3,996
5,633 prizes, amounting to		$116,372

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following nationals banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

49 differing only in numbers; also twenty tickets denominated eighths of said purported Pan-American Lottery Company, one of which is annexed hereto in its entirety and made a party of this indictment, because the grand jurors are unable to accurately describe the same by reason of the great amount of printed matter and cuts thereon contained, the other nineteen of such eighths tickets being like unto the one hereto attached and annexed in its entirety and made a part hereof:

50 Eighth, class C.

Pan-American Lottery Co.

Capital prize, $32,000.

Draws monthly at Ascuncion, Paraguay.

Will draw on Wednesday, March 15th, 1899.

5339. [5319.]*

This eighth ticket entitles the holder thereof to the eighth of such prize as may be drawn by its number in the within-named drawing if presented before the expiration of three months from the date of said drawing.

Five, one, eight, cipher, five.
[Five, one, seven, eight, five.]*
[51785.]*
51805.

25 cents.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

(Back.)

All genuine tickets are signed by Enrique Montes de Leon, manager, and Barnardo Lopez, intervenor, and will not hold good if mutilated, pierced, or in any way altered from the original.

[* Words and figures enclosed in brackets erased in copy.]

List of Prizes.

1 prize	$32,000	$32,000
1 prize	15,000	15,000
1 prize	5,000	5,000
1 prize	2,000	2,000
3 prizes	500	1,500
10 prizes	200	2,000
20 prizes	100	2,000
100 prizes	50	5,000
200 prizes	30	6,000
300 prizes	20	6,000
500	10	5,000

Approximation Prizes.

150 prizes	$20	$3,000
150 prizes	10	1,500
150 prizes	8	1,200
150 prizes	8	1,200

Terminals.

999 prizes	$10	$9,990
999 prizes	10	9,990
51		
999 prizes	4	3,996
999 prizes	4	3,996
5,733 prizes, amounting to		$116,372

We personally supervise all drawings of the Pan-American lottery, and our signatures witness that we guarantee the perfect fairness of said drawings.

ENRIQUE MONTES DE LEON, *Manager.*
FERNANDO LOPEZ, *Intervenor.*

Certificate.

Since September, 1893, I have paid as presented, without delay or discount, all prizes drawn in the Pan-American lottery, and I certify that the Pan-American Lottery Company has placed in my charge an amount of money amply sufficient to guarantee the payment of all prizes which may be drawn in the Pan-American lottery, and that said prizes will be paid upon presentation to me or to any of the general State agents representing the Pan-American lottery in the United States.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.

National Bank of Commerce, Omaha, Nebraska.
Franklin national bank, New York.
First National Bank of San Francisco, California.

J. C. BOCA,
General Agent for the United States.

52 differing only in numbers, and said box so containing the said certificates or tickets being addressed and consigned by the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park to Livingston & Blosser, 2477 Washington avenue, Ogden, Utah, which was so addressed and so deposited with the said express company for the purpose of being carried from Dallas, in the State of Texas, to Ogden, in the State of Utah, and there delivered to Livingston & Blosser for the purpose of disposing of such above-mentioned lottery tickets, and which said tickets—wholes, halves, quarters, and eighths—purported upon their face to entitle the holder thereof to so much of said prize of thirty-two thousand dollars as the denomination of such ticket might be entitled to in the event the number upon such ticket at said drawing, which purported to take place on Wednesday, March 15th, 1899, should be allotted the prize or any part thereof, according to lot or chance, the peculiar and particular manner of which is to the grand jurors unknown, all of which the said C. F. Champion, alias W. W. Ogden, W. F. Champion, and Charles B. Park then and there well knew, contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

G. J. GIBBS,
Foreman of the Grand Jury.

Endorsed as follows: No. 519. United States *vs.* C. F. Champion *et al.* Violation of art. 5440. Indictment. A true bill. G. J. Gibbs, foreman. Presented and filed in open court this April 13th, A. D. 1899. J. H. Finks, clerk. Wm. H. Atwell, United States attorney.

53 *Authentication of Record.*

District Court of the United States, Northern District of Texas.

I, J. H. Finks, clerk of said court, do hereby certify that the foregoing attached nine pages of printing and writing are true, correct, and complete copies of the original on file and remaining of record in the clerk's office of said court.

In witness whereof I have hereunto set my hand and the seal of said district court at Dallas, Texas, the 12th day of June, 1899.

J. H. FINKS, *Clerk*,
By CHAS. H. LEDNUM, *Deputy*.

{Seal of the United States District Court, Dallas, Northern District Texas.}

UNITED STATES OF AMERICA, }
Northern District of Texas. }

I, Edward R. Meek, United States district judge for the northern district of Texas, do hereby certify that J. H. Finks, clerk, whose genuine signature is affixed to the foregoing certificate by his deputy, Chas. H. Lednum, is and was at the time of affixing his signature thereto clerk of the district court of the United States in and for the northern district of Texas, duly appointed and qualified, and that Chas. H. Lednum, whose genuine signature is affixed to the foregoing certificate, is the duly appointed and qualified deputy clerk of the said J. H. Finks, clerk, as aforesaid; that his acts and attestations and the acts and attestations of each, given as such clerk or clerk by deputy, are entitled to full effect and credit, and that his certificate is in due form of law.

In witness whereof I have hereunto set my hand this 12th day of June, 1899.

EDWARD R. MEEK,
United States District Judge for the Northern District of Texas.

I, J. H. Finks, clerk of said court, do hereby certify that the Honorable Edward R. Meek, whose signature is subscribed to the foregoing certificate, was at the time of signing and attesting the same United States district judge for the northern district of Texas, duly commissioned and qualified.

J. H. FINKS, *Clerk*,
By CHAS. H. LEDNUM, *Deputy*.

{ Seal of the United States District Court, Dallas, Northern District Texas. }

(Endorsed:) Filed June 22, 1899. S. W. Burnham, clerk.

54 EXHIBIT E.

Transcript of Record.

In the United States Circuit Court of Appeals for the Seventh Circuit.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

UNITED STATES OF AMERICA, Appellant,
vs.
C. F. CHAMPION, Appellee. } No. 585.

Mr. S. H. Bethea, United States district attorney, counsel for appellant.
Mr. Joseph B. David, counsel for appellee.

Appeal from the circuit court of the United States, northern district of Illinois, northern division.

Transcript of record filed April 12, 1899. Printed record.

55 In the United States Circuit Court of Appeals for the Seventh Circuit.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

UNITED STATES OF AMERICA, Appellant,
vs.
C. F. CHAMPION, Appellee. } No. 585.

Mr. S. H. Bethea, United States district attorney, counsel for appellant.
Mr. Joseph B. David, counsel for appellee.

Appeal from: the circuit court of the United States, northern district of Illinois, northern division.

56 *Pleas.*

Pleas in the circuit court of the United States for the northern district of Illinois, northern division, begun and held at the United States court-room, in the city of Chicago, in said district and division before the Honorable James G. Jenkins, circuit judge of the United States for the seventh judicial circuit, on Thursday, the thirtieth day of March, in the year of our Lord one thousand eight hundred and ninety-nine, being one of the regular days of the December term of said court, 1898, and of our Independence the one hundred and twenty-third year.

S. W. BURNHAM, *Clerk.*

57 In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus*. 25119. Petition.

Be it remembered that on this day to wit, the twenty-second day of March, 1899, came C. F. Champion by his attorney and filed in the clerk's office of said court a certain petition for writ of *habeas corpus* and also for a writ of certiorari, which said petition is in words and figures following to wit:

Petition for Writ of Habeas Corpus and Certiorari. Filed M'ch 22, 1899.

Petition for writ of *habeas corpus* and certiorari.

UNITED STATES OF AMERICA, } ss:
State of Illinois, }

In the Circuit Court of the United States, Northern Division of Illinois.

To the Honorable James G. Jenkins, one of the judges of said court:

The petitioner, C. F. Champion, a resident and citizen of the city of Chicago, county of Cook and State of Illinois, respectfully shows unto your honor that he is now detained and restrained of his liberty by John C. Ames, United States marshal for the northern district of Illinois, by virtue of a certain warrant of removal issued by the Honorable Christian C. Kohlsaat, judge of the United States district court for the northern district of Illinois, a copy of which said warrant of removal is hereto attached and marked "Exhibit A" and made a part hereof.

This petitioner further shows that said warrant of removal was issued by the said Christian C. Kohlsaat, said judge, on the 21st day of March, A. D. 1899, upon oral motion of the United States district attorney for said northern district of Illinois, made in open court and which motion was based solely upon a certain warrant of commitment of this petitioner C. F. Champion, issued on the 21st day of March, A. D. 1899, by Lewis F. Mason, United States commissioner in and for said northern district of Illinois, a copy of which said warrant of commitment is hereto attached, marked "Exhibit B" and made a part hereof.

Your petitioner further represents that said warrant of removal issued after objection by said C. F. Champion had been
57½ made in open court by and through his attorney, and that upon the conclusion of the hearing of said objections the said judge refused to permit or entertain any appeal from the granting of said warrant of removal, though requested by this petitioner to permit such appeal to the United States circuit court of appeals in and for the seventh district thereof, and the said judge of said northern district of Illinois refused to permit the filing of any objections or the entertaining of any motion of record, solely upon the ground that his act in the premises of issuing the warrant was

not a matter of record and refused to entertain any motion or any order of record, and the said judge refused to enter any order admitting this petitioner to bail.

And your petitioner further represents that said warrant of commitment issued by the said Lewis F. Mason, said United States commissioner as aforesaid was issued solely and by virtue of the following:

First. A copy of the original complaint made before Charles H. Lednum, Esquire, a United States commissioner for the northern district of Texas, a copy of which was filed with said Lewis F. Mason, United States commissioner aforesaid, on the 3rd day of March, A. D. 1899, a copy of which said complaint is hereto attached and marked "Exhibit C" and made a part hereof.

Second. A warrant for the arrest and apprehension of the said C. F. Champion issued by the said Lewis F. Mason, said United States commissioner, by reason of the filing before him of said complaint referred to herein as Exhibit C, a copy of which said warrant is also attached hereto and marked "Exhibit D" and made a part hereof, and upon which said warrant this petitioner was apprehended and arrested by the said United States marshal of the northern district of Illinois and brought before the said Lewis F. Mason, said United States commissioner, for the examination touching the charges in said complaint heretofore referred to as Exhibit C.

This petitioner further says that this petitioner stands ready to produce before this honorable court the original said warrant now in the hands of the said United States marshal of the northern district of Illinois.

Third. An amended complaint filed before said United States commissioner, Lewis F. Mason, on the 14th day of March, A. D. 1899, a copy of which said amended complaint is also hereto attached and marked "Exhibit E" and made a part hereof.

Fourth. Certain testimony and evidence introduced before said Lewis F. Mason, said United States commissioner, upon the examination of this petitioner touching his probable guilt of the
57½ charges alleged against him in said amended complaint (the United States of America by and through its attorney in and for the northern district of Illinois having before said commissioner abandoned the complaint first herein mentioned and referred to as Exhibit C) a complete transcript of the testimony and evidence heard before said United States commissioner, Lewis F. Mason, touching the charges in said amended complaint, a copy of each of certain exhibits before the said United States commissioner, Lewis F. Mason, on said hearing is also hereto attached and marked "Exhibit F" and made a part hereof; said exhibits introduced on the hearing before said commissioner which are hereto respectively marked Exhibits 1, 2, 3, 4, 5, 6, 7, the original of all of said exhibits being now in the possession and custody of the United States attorney in and for the northern district of Illinois, which this petitioner stands ready to produce before this honorable court upon the hearing of this petition.

This petitioner further shows unto this honorable court that his detention upon said warrant of removal or upon said warrant of commitment by said United States marshal is unjust and contrary to law.

First. Because said Lewis F. Mason, said United States commissioner was without authority of law to issue any warrant for the arrest of this petitioner, C. F. Champion, based upon the complaint filed before him the said United States commissioner and referred to herein as Exhibit C, and in issuing said warrant exceeded his jurisdiction since the procedure in the issuance of said warrant on said complaint was not in accordance with the Constitution of the United States of America, and the laws thereof.

Second. Said warrant for the arrest of this petitioner based upon said complaint is vague, uncertain and is not sufficient under the Constitution and laws of the United States of America.

Third. Said warrant of commitment of this petitioner issued by said Lewis F. Mason, said United States commissioner upon which said warrant of removal was issued is void, and was issued without authority of law, because the said amended complaint mentioned and referred to herein and attached hereto as Exhibit E, is not in accordance with the Constitution and laws of the United States, as it does not appear by said amended complaint that the matters alleged in said amended complaint were made from facts within the knowledge of said complainant or upon credible information and belief, and said amended complaint was insufficient to authorize the said United States commissioner, Lewis F. Mason, to conduct
58 any examination of this petitioner, C. F. Champion, touching the probable guilt of the said petitioner of the offense in said amended complaint alleged, and all proceedings before him, the said United States commissioner, Lewis F. Mason, by virtue of which this petitioner was committed to the custody of said United States marshal were void.

Fourth. Said warrant of commitment issued by the said Lewis F. Mason, said United States commissioner, was void by reason of the fact that said complaint and said amended complaint were each respectively insufficient and uncertain and did not charge according to the law the violation of any crime or offense against the United States of America, as is required by law.

Fifth. Said Lewis F. Mason, said United States commissioner, exceeded his jurisdiction in issuing said warrant of commitment because there was not sufficient testimony heard by him, the said commissioner, upon the examination of this petitioner, C. F. Champion, touching the matters in said amended complaint alleged showing or tending to show that there was probable cause for believing that this petitioner, C. F. Champion, was guilty of the offense alleged in said amended complaint.

Sixth. Said Lewis F. Mason, said United States commissioner was without jurisdiction in the issuing of said warrant of commitment of this petitioner, C. F. Champion, and in issuing the same exceeded his jurisdiction, because there was no testimony or evidence heard before him, the said commissioner showing or tending

to show that the said C. F. Champion was guilty of any crime or offence against the United States of America, or that there was any probable cause to believe that he was guilty of any offence or crime alleged to have been committed by him the said C. F. Champion as charged in the said complaint or amended complaint.

Seventh. Said Lewis F. Mason, said United States commissioner, was without jurisdiction to issue the said warrant of commitment and exceeded his jurisdiction in issuing the same because it fully appeared before him, the said United States commissioner that at the time the offence — alleged to have been committed within the jurisdiction of the northern district of Texas as charged in said complaint and said amended complaint, that he, the said C. F. Champion, was not at or in Dallas, Texas, nor within the jurisdiction of said northern district of Texas, but that he, the said C. F. Champion, was in the city of Chicago, county of Cook and State of Illinois and within the jurisdiction of the northern district of Illinois, and that he, the said C. F. Champion, did not aid, abet, assist, advise, counsel or encourage nor cause any other person or persons to commit or aid in the commission or perpetration of any crime or offence against the United States of America, nor any crime or offence as charged in either the said complaint or amended complaint.

58½ Eighth. That all proceedings before said commissioner were void because the statute alleged in said amended complaint as having been violated by the said C. F. Champion, was and is null and void and of no effect because the same was passed contrary to the Constitution of the United States and the same was and is unconstitutional, and in passing the same the Congress of the United States exceeded its authority.

Ninth. The said warrant of removal issued by the said Christian C. Kohlsaat of the United States district court for the northern district of Illinois, is not sufficient in law as the same is vague, uncertain and indefinite, and does not show upon its face sufficient jurisdiction in the said judge of the district court in issuing the same and because the statute alleged to have been violated by this petitioner, as set forth in said warrant of removal was and is unconstitutional and void.

And this petitioner shows that all the testimony which was heard by the said Lewis F. Macon, said United States commissioner, and the examination of this petitioner, C. F. Champion, touching the matters charged in said amended complaint was presented to the said Christian C. Kohlsaat, said district judge, and it fully appeared before him, the said judge, that this petitioner was not and could not be guilty of the offence alleged against him in said amended complaint for which said warrant of removal was issued.

Your petitioner further says that he is not restrained of his liberty by the said John C. Ames, United States marshal by any other process of any kind or character, except as hereinbefore set forth, and this petitioner fears that unless restrained by the order of this honorable court the said John C. Ames said United States marshal in and for the northern district of Illinois will forthwith proceed

to execute said warrant of removal and take this petitioner from the jurisdiction of this court and from the northern district of Illinois and to the northern district of Texas.

Your petitioner further shows and states upon credible information and belief which he believes to be true, that no warrant for the apprehension and arrest of this petitioner was issued by the said Charles H. Lednum, United States commissioner for the northern district of Texas based upon the complaint filed before him, and your petitioner states the fact to be that no United States grand jury has been in session in and for the northern district of Texas since the date upon which it is alleged in either the said complaint or amended complaint hereto attached said alleged offense was committed by petitioner, and that no indictment is now pending in the United States court in and for the northern district of Texas nor in any other court of the United States of America
59 charging this petitioner with the violation of any law, or of any offence, crime or misdemeanor against the United States of America.

Your petitioner further shows that he is innocent of the crime or offence alleged against him in said complaint and said amended complaint and upon the hearing of the matter before this honorable court his innocence in the premises will be made manifest.

Your petitioner further shows that it will be necessary for this honorable court to have before him all the proceedings before the said United States commissioner, said Lewis F. Mason, in the premises.

Your petitioner therefore prays that a writ of *habeas corpus* forthwith issue by order of this honorable court pursuant to the Constitution of the United States of America, and the laws thereof commanding the said John C. Ames, said United States marshal forthwith to produce before your honor the body of this petitioner, C. F. Champion, so that the cause and legality of his detention may be inquired into and that upon the hearing of this petition this petitioner may be discharged from the custody of said John C. Ames, said United States marshal of the northern district of Illinois.

This petitioner prays that a writ of certiorari issue pursuant to law in aid of the writ of *habeas corpus* forthwith commanding the said Lewis F. Mason, said United States commissioner to bring before your honor all records and proceedings before him the said Lewis F. Mason, said United States commissioner, touching the arrest, apprehension, examination and commitment of this petitioner in the premises as hereinbefore set forth.

And your petitioner will ever pray, etc.

C. F. CHAMPION.

JOSEPH B. DAVID,
Att'y for Petitioner.

UNITED STATES OF AMERICA,
State of Illinois, Northern District of Illinois, } ss:
County of Cook,

Before me, S. W. Burnham, clerk, personally appeared C. F. Champion, the foregoing petitioner, well known to me to be the same person whose name is subscribed to the foregoing petition and who being first duly sworn on oath says that he has read the foregoing petition by him subscribed and that he knows the contents thereof, and that the same is true in substance and in fact.

C. F. CHAMPION.

59½ Subscribed and sworn to before me, this 22nd day of March, A. D. 1899.

S. W. BURNHAM,
Clerk U. S. Circuit Court, Nor. Dist. of Ill.

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

EXHIBIT A.

Warrant of Removal.

EXHIBIT "A."

C. C. Kohlsaat, judge of the district court of the United States of America for the northern district of Illinois, to the marshal of the same district, Greeting:

Whereas, C. F. Champion has been committed to jail under and by virtue of a commitment made by an United States commissioner for this district, a copy of which commitment is hereto annexed; and the United States attorney for this district has made application to me for a warrant for the removal of the said prisoner under the provisions of section 1014 of the Revised Statutes, to the northern district of Texas, in which district the offence for which he has been so committed is to be tried and the said prisoner has been brought before me, and due examination of the matter has been made.

Therefore you are hereby commanded, in the name and by the authority of the said United States, that you forthwith remove the said prisoner, now in your custody, to the said northern district of Texas and there deliver him to the marshall of that district, in order that the said prisoner may be dealt with according to law.

Given under my hand and the seal of the said district court at Chicago, in the said northern district of Illinois, this 21st day of March, A. D. 1899, and of the Independence of the United States the 123d year.

(Signed) C. C. KOHLSAAT,
[SEAL.] *District Judge.*

Attest:
(Signed) T. C. MACMILLAN, *Clerk.*

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

60 EXHIBIT B.

Warrant of Commitment.

EXHIBIT "B."

The President of the United States of America to the marshal of the northern district of Illinois and to the keeper of the common jail, of the county of Cook, in said district, Greeting:

Whereas, C. F. Champion has been apprehended and brought before the undersigned, Lewis F. Mason, a United States commissioner for the district aforesaid, for examination, by virtue of a warrant of the said commissioner issued upon complaint made before him in writing, on oath, charging the said C. F. Champion with transporting lottery tickets, etc.

And whereas, on such examination there appears probable cause to believe the said C. F. Champion guilty of the said offense, and the undersigned, commissioner as aforesaid, has ordered the said C. F. Champion to enter into recognizance, with sufficient surety, in the sum of $1,000.00 (dollars) for his appearance for trial on the said charge at the May term of the district court of the United States for the northern district of Texas, or in default thereof to be committed to jail; and whereas, the said C. F. Champion has not offered such recognizance; now, therefore, you the said marshal, are hereby commanded that you convey the said C. F. Champion to the said jail; and you, the said keeper, are hereby commanded that you receive the said C. F. Champion into the said jail, and him there safely keep until he be discharged therefrom by due course of law.

Witness the hand and seal of the said commissioner, at Chicago, aforesaid, in the said division and district, this 21st day of March, A. D. 1899, and of the Independence of the United States the 123 year.

(Signed) LEWIS F. MASON,
[SEAL.] *U. S. Commissioner.*

True copy.
LEWIS F. MASON,
U. S. Commissioner.

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

60½ EXHIBIT C.

Complaint.

"EXHIBIT C."

UNITED STATES OF AMERICA, }
Northern District of Texas. }

Before me, Charles H. Lednum, a United States commissioner, for the northern district of Texas, personally appeared this day

L. N. Farish, who being by me first duly sworn, deposes and says upon his own knowledge and upon information, received from an official investigation, which he believes to be true and correct that on or about the 20th day of February, A. D. 1899, at Dallas county, Texas, in the northern district of Texas, one W. F. Champion and one C. B. Park, and one C. F. Champion, alias W. W. Ogden, in violation of sections 5440 of the Revised Statutes of the United States, did unlawfully and wilfully conspire together to commit an offense against the United States laws, to wit: did for the purpose of disposing of the same, transport and cause to be transported and did deposit for the purpose of being transported from Dallas in the State of Texas to Fresno in the State of California, one certain box and package of lottery tickets and advertisements and certificates and papers and instruments representing a ticket for a chance and share and interest in and dependent upon the event of a certain lottery called the Pan-American Lottery Company of Paraquay, South America.

Second count. And the said deponent aforesaid further says under oath upon investigation made as aforesaid, that the said W. F. Champion and C. B. Park and C. F. Champion alias W. W. Ogden, did so conspire together to commit an offense against the laws of the United States to wit: an offense against chapter 191, 28th Statutes at Large, 963, and in pursuance of such conspiracy did unlawfully and wilfully further deposit certain boxes and packages addressed to ten other divers and sundry parties domiciled and living outside of the State of Texas but in the United States, and then the said W. F. Champion, and C. B. Park and C. F. Champion, alias W. W. Ogden, did deposit the said boxes and packages with the Wells, Fargo Express Company in Dallas, Texas, to be transported and carried from the State of Texas to the various States and Territories of the United States indicated on the said boxes and packages, and the said boxes and packages containing papers, certificates and instruments purporting to be and representing tickets, chances shares and interests in and dependent upon the event of a lottery, to wit: the Pan-American Lottery Company of
61 Paraquay, South America, which was then and there offering prizes dependent upon lot and chance and the said conspiracy aforesaid, against the laws of the United States was that the said lottery ticket so transported and carried should be disposed of contrary to the form of statutes in such case made and provided and against the peace and dignity of the United States, and the said W. F. Champion, C. B. Park and C. F. Champion alias W. W. Ogden, are now in the northern district of Texas.

Deponent further says that he has reason to believe and does believe that E. T. Stokes, El Paso; agent of the Wells Fargo Express Co., Dallas; Richard Rule, Deming, New Mexico, and Richard Hudson, Deming, New Mexico, are material witnesses to the subject-matter in this complaint.

(Signed) L. H. FARISH.

Sworn to before me and subscribed in my presence this 28th day of February, A. D. 1899.

CHARLES H. LEDNUM.
U. S. Commissioner for the Northern District of Texas.

I approve this prosecution and the United States commissioner C. H. Lednum will issue warrants for arrest of parties.

WM. H. ATWELL, *U. S. Att'y.*

The foregoing has the following endorsement, to wit:
United States district court. The United States of America *vs.* W. F. Champion *et al.* Affidavit. Filed February 28, 1899. Charles H. Lednum, U. S. commissioner.

I hereby certify that the foregoing is a true copy of the original thereof now in my office.
March 1st, 1899.
Attest:
[U. S. Commissioner Seal.]

CHARLES H. LEDNUM,
United States Commissioner.

I hereby certify that the foregoing is a true copy of a copy of an original complaint filed in my office this day.
March 3rd, 1899.
Attest:
[U. S. Commissioner Seal].

LEWIS F. MASON,
U. S. Commissioner.

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

61½ EXHIBIT D.

Warrant for Arrest, etc.

EXHIBIT "D."

The President of the United States of America to the marshal of the northern district of Illinois:

Whereas, complaint in writing, on oath, has been made to the undersigned, Lewis F. Mason, a United States commissioner for the district aforesaid, charging that W. F. Champion, C. B. Park and C. F. Champion, alias W. W. Ogden, on or about the 20th day of February, A. D. 1899, at Dallas, Dallas county, within the northern division of the northern district of Texas, did violate the postal laws of the United States, to wit, section 5440 of the Revised Statutes of the United States, — unlawfully and wilfully compromise together to commit an offense against the laws of the United States, to wit, did transport lottery tickets.

Now, therefore, you are hereby commanded that you take the said W. F. Champion, C. B. Park and C. F. Champion, alias W. W. Ogden (if they be found within your said district), and them safely

keep, so that you have their bodies forthwith before the undersigned, commissioner as aforesaid, at his office in Chicago, in the said district (or in case of his absence, or inability to act, before any other United States commissioner or judicial officer having jurisdiction), in order that the said W. F. Champion, C. B. Park, C. F. Champion, alias W. W. Ogden, may be dealt with according to law. And have you then there this writ, with a return of your doings hereon.

Witness the hand and seal of the said commissioner, at Chicago aforesaid, this 3rd day of March, A. D. one thousand eight hundred and ninety-nine and of the Independence of the said United States the 123 year.

[U. S. Commissioner Seal.]

(Signed) LEWIS F. MASON,
U. S. Commissioner.

I, Lewis F. Mason, do hereby certify that the above is a true copy of the warrant issued by me on the 3rd day of March in the case U. S. *vs.* W. F. Champion *et al.*

(Signed) LEWIS F. MASON,
U. S. Commissioner.

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

62 EXHIBIT E.

Amended Complaint.

EXHIBIT "E."

THE UNITED STATES OF AMERICA,
Seventh Circuit, Northern District of Illinois, Northern Division, } *sct:*

On this fourteenth day of March A. D. 1899, at the city of Chicago, in the northern division of the northern district of Illinois, before Lewis F. Mason, a commissioner of the said United States for the said district comes Richard Hudson, of the city of Deming, New Mexico, and upon his oath complains and says that C. F. Champion, late of the city of Dallas, in the northern district of Texas, on or about the 15th day of February, A. D. 1899, at Dallas aforesaid, in the district last aforesaid, unlawfully did cause to be carried and transferred by the Wells-Fargo Express Company from the State of Texas to the Territory of New Mexico, divers tickets in and advertisements of a lottery, to wit: a lottery in the same tickets and advertisements called the Pan-American lottery and therein described as a lottery then being conducted by the Pan-American Lottery Company with drawings monthly at Asuncion, Paraquay, that is to say one package containing such lottery tickets and advertisements directed to one Samuel Abraham, at Clifton, Arizona Territory, another package containing such tickets and advertisements directed

to S. H. Benson at Wilcox, Arizona Territory, another package containing such tickets and advertisements directed to Paul S. Migel, at San Bernardino, California, and another package containing such tickets and advertisements directed to James A. Ward, at Fresno, California, contrary to the forms of the statutes of the said United States, in such case made and provided, viz: section 1, act of March 2nd, 1895, 2 suppl. R. S. U. S., 435.

Therefore said complainant prays that said C. F. Champion may be apprehended and further dealt with according to law.

(Signed) RICHARD HUDSON.

Subscribed and sworn before me by the above-named Richard Hudson, the day and year first above written.

(Signed) LEWIS F. MASON,
Commissioner.

Approved:
[SEAL.]

____ ____,
U. S. Att'y N. Dist. Ill.

62½ (Endorsement:) Northern district of Illinois, northern division, before Lewis F. Mason, U. S. commissioner. United States of America *vs.* C. F. Champion. Amended complaint for violation of act March 2, 1895, chapter 191, pg. 435, vol. 2, R. S. of U. S. Filed March 14, 1899. Lewis F. Mason, U. S. commissioner.

UNITED STATES OF AMERICA, *Northern District of Illinois,* } *sct:*

I, Lewis F. Mason, United States commissioner, do hereby certify that the within is a true copy of the amended complaint filed before me on the 14th day of March, 1899, in the case of The United States *vs.* C. F. Champion.

(Signed) LEWIS F. MASON,
[SEAL.] *U. S. Commissioner.*

Dated this 15th day of March A. D. 1899.

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

EXHIBIT F.

Testimony of Thomas H. Nesmith.

EXHIBIT "F."

THE UNITED STATES OF AMERICA
vs.
W. F. CHAMPION, C. B. PARK, and C. F. CHAMPION, alias W. W. Ogden.

Preliminary hearing before United States Commissioner Mason, March 14th, 1899, at 10 o'clock a. m.

Clark J. Tisdel, Esq., appearing for the Government.
Joseph B. David, Esq., appearing for the defendant, C. F. Champion.

THOMAS H. NESMITH, called as a witness on behalf of the prosecution, having been first duly sworn, was examined in chief by Mr. Tisdel, and testified as follows:

Q. What is your name?
A. Thomas H. Nesmith.
Q. What is your business?
A. Mail-carrier.
63 Q. Where?
A. At Dallas, Texas.
Q. How long have you been a mail-carrier at Dallas, Texas?
A. About eight and a half years.
Q. Did you ever see the defendant, Mr. C. F. Champion before?
A. Very often.
Q. When did you first see him?
A. Well, I couldn't say positively.
Q. Well, about how many years ago?
A. I should say it was near four years ago.
Q. Do you recollect your first meeting with him?
A. No, I think not.
Q. What is the first conversation that you recollect of having with Mr. Champion? Do you recollect when you had a conversation with Mr. Champion?
A. No, I don't—I don't know just what the conversation was.
Q. Do you know Mr. W. W. Ogden, of Dallas, Texas?
A. No, sir.
Q. Did you ever hear of him?
A. I have heard of such a party.
Q. Where did you hear about him, and when? Was Mr. Champion present?
A. Yes, sir.
Q. Go on and tell what the conversation was?
A. I received an order through the post-office to deliver——

Mr. DAVID: I object to that.

Mr. TISDEL: Are you talking now about Ogden or Champion?

A. I had reference to Mr. Champion's mail.

Q. Never mind that. I am asking what talk you had with Mr. Champion about Mr. Ogden?

A. I received certain mail addressed W. W. Ogden, 385 Main street, and not knowing the party I took it for inquiry to the lady who had charge of the house, and she didn't know anything about it, and I inquired at the room of Mr. Champion, and he told me that that mail should be left at his office.

Q. Well, what did you do with the mail addressed to W. W. Ogden after that?

A. I always left it at Mr. Champion's office.

Q. That is when he was on Main street?

A. Yes, sir.

Q. Did Mr. Champion afterwards move his office?

A. Yes, sir.

Q. Where to?

A. I am not positive; I think the McCloud hotel.

Q. Did you leave W. W. Ogden's mail there too?

A. That mail along with Mr. Champion's mail was turned over to the carrier who carried that particular route.

Q. You don't know anything about that then?

A. No, sir.

Q. Did Mr. Champion ever come back to your carrier dis-
63½ trict again?

A. Yes, sir; he moved back to rooms in the Gill building 369 Elm street.

Q. How long did you deliver mail to him there

A. I don't remember how long it was——

Q. Up to the present time?

A. Yes, sir.

Q. How about Ogden's mail?

A. It went there along with his mail.

Q. You delivered it?

A. Yes, sir.

Cross-examination by Mr. DAVID:

Q. Did Mr. Champion ever tell you that he was W. W. Ogden?

A. No, sir.

Q. Do you know W. W. Ogden?

A. Never did.

Q. You have been delivering mail that was addressed to W. W. Ogden?

A. Yes, sir.

Q. Where did you first deliver that mail?

A. 385 Main street.

Q. You don't know but what W. W. Ogden was some person having an office where Mr. Champion was, do you?

A. No; I don't know that.

Q. All you know is that Mr. Champion told you to leave W. W. Ogden's mail with him or at his office?

A. At his office.

Q. How many rooms were kept at that office where you delivered this mail, how many rooms in the suite?

A. I am not positive about that; I think he occupied two or three rooms.

Q. You don't know who rented or paid the rent of that office?

A. No, sir.

Q. How many persons were there in the office?

A. Oh, at that time I don't think there was, so far as I can remember, any one except—he and his wife only.

Q. Weren't there three persons there?

A. I don't remember any three parties there.

Q. How long ago was this?

A. I should judge three or four years ago.

Q. There was no particular reason why you should charge your memory with it?

A. No, sir. That is the reason why I can't state the dates positively.

Q. How long did you continue to deliver mail there?

A. Well, for some months until he moved to the other part of the city.

Q. Afterwards, in the usual course of business you continued to deliver the mail of W. W. Ogden to where Mr. Champion moved?

A. He moved to another carrier district.

64 Q. And you don't know anything about that part?

A. No, sir.

Q. That continued about how long, where you first delivered the mail?

A. It was several months, I couldn't say how long.

Q. What building did you say this was?

A. 385 Main street.

Q. Do you say that Mr. Champion then moved out of your district?

A. Out of my district?

Q. Are you sure about that?

A. Yes, sir.

Q. Was the corner of Elm and Ackart in your district?

A. Yes, sir.

Q. Don't you know that Mr. Champion moved from Main street to this last place on Elm street?

A. I think perhaps he did.

Q. Right over Brigg's and Bradford's grocery store?

A. That is not in my district.

Q. It is not?

A. The first place is, the second place not.

Q. Please explain what you mean.

Mr. TISDEL: Across the street perhaps.

A. I mean by that that Ackart street is the division line between 1 and 6 and 4 and myself.

Mr. DAVID: And this particular store that I speak of——

A. That is in route No. 6.

Q. That was not in your district?

A. No, sir.

Q. You never delivered mail there?

A. No, sir.

Q. Then subsequently Mr. Champion moved back into your district?

A. Yes.

Q. Where was that?

A. 369 Elm, or more strictly speaking, his office was over 371; the doorway was between the two.

Q. Was the mail addressed to W. W. Ogden that you last delivered addressed to this number?

A. I have had some few pieces addressed there but not many; they nearly always came addressed plain Dallas.

Q. Without any further instructions or conversation you had delivered the mail in this way?

A. On the former order.

Q. And you never knew who W. W. Ogden was?

A. Never did.

Q. And there were how many persons in this last building, in this last office, in the office where Mr. Champion had his office?

A. I didn't know until recently of but one young man that seemed to have charge of the office, latterly there has been two.

Q. What you mean is that where you delivered the first mail at the Main Street building you never knew of more than two persons occupying the office?

A. I never did only the two. If there was more there I didn't come in contact with them.

Q. They might have had their office there without you knowing it?

A. That is true.

64½ Q. It is not an unusual thing in delivering mail to receive orders to deliver mail addressed to a certain person to another person?

A. It is not.

Q. And is it not an unusual thing for you not to inquire who that individual is?

A. I very seldom do. It is not part of my business only in certain instances where mail must be delivered to the person only.

Q. And this is not one of those cases?

A. No, sir.

Q. For whom Mr. Champion was receiving the mail of W. W. Ogden you don't know?

A. I don't know.

Redirect examination by Mr. TISDEL:

Q. How much mail have you been in the habit of delivering to Champion's address?

A. Well, I delivered considerable mail there.

Q. Would it average a letter a day or ten or one hundred?

A. More than a letter a day.

Q. Make the best guess you can; of course you can't state accurately, what the mail averaged, as near as you can tell, for Mr. Champion and Mr. Ogden?

A. For Mr. Ogden scattering; Mr. Champion got considerable mail, sometimes four or five or six letters a day, and sometimes only one or two.

Mr. DAVID: When you speak of Champion you mean the defendant.

A. Yes, sir; I mean this Mr. Champion here, C. F.

Testimony of Park Arnold.

PARK ARNOLD, called as a witness on behalf of the prosecution, being first duly sworn, was examined in chief by Mr. Tisdel, and testified as follows:

Q. What is your name?

A. Park Arnold.

Q. What is your business?

A. I run the elevator at 369 Elm street.

Q. Do you know Mr. Champion, the defendant?

A. Yes, I know him; I have never been introduced to him.

Q. How long have you been the elevator boy there?

A. About six months.

Q. Does Mr. Champion have his office in that building?

A. Yes, sir.

Q. Do you know who else has an office in that building with Mr. Champion, how many more people are in the office?

A. There is no one in there except Mr. Parkes.

Q. Do you know of Mr. W. W. Ogden having an office in that building?

A. No, sir.

65 Q. Have you ever heard of him in connection with the building?

A. Yes, sir.

Q. Has there been latterly within three or four weeks anybody in the office who have made their headquarters there?

A. Mr. Champion's brother has been there occasionally.

Q. He has been there recently?

A. Yes, sir.

Q. As elevator boy in that building did you ever have any inquiries from people asking you for Mr. W. W. Ogden's office?

A. Well, I have occasionally seen messenger boys go up in the elevator, and they have asked me for Mr. W. W. Ogden.

Q. Where did you direct them?
A. To Mr. Champion's office.

Cross-examination by Mr. DAVID:

Q. Did Mr. Champion tell you to direct them there?
A. No, sir, Mr. Parks did.
Q. The only information you received from anybody directing anybody there for the name of Ogden was from Mr. Parks?
A. Yes, sir.
Q. You don't know but what Mr. Parks was W. W. Ogden himself?
A. I know Mr. Parks is not W. W. Ogden.
Q. Did he tell you that?
A. No, he never told me, but——
Q. But what?
A. I know that is not his name.
Q. Why certainly, you don't know but what he went under the name of W. W. Ogden?
A. I don't know what name he went under.
Q. You don't know but what Mr. Champion's brother went under the name of W. W. Ogden?
A. No, I couldn't swear to that.
Q. You never heard anybody call Mr. Champion, the defendant here, W. W. Ogden?
A. No, sir.
Q. Who told you that this man's name was Champion?
A. Well, Mr. Parks.
Q. So when you use the name of Champion you don't know it is his name except from what Mr. Parks told you?
A. No, sir.
Q. You don't know him very well?
A. No, sir.
Q. When you say his name is Champion you don't want to be understood as saying you know it?

Mr. TISDEL: I will concede that he doesn't.

Mr. DAVID: When you say a person's name is so and so, you are supposed to know more than that some person casually told you. Isn't that correct? The only way you know the name of Champion is because Mr. Parks told you?
A. Yes, sir.
Q. How did Mr. Parks happen to tell you that his name was Champion?
A. I asked him.
651½ Q. You asked him who that man was?
A. Yes, sir.
Q. Was Mr. Champion's name on the door?
A. Yes, sir. C. F. Champion on the office door.
Q. But you don't know even the man himself whose name is

there on the door? And so far as you know anybody might have rented the office, only so far as somebody told you?

A. No, sir.

Q. How many tenants are in that building?

A. Well, I don't really know; there is a good many though.

Q. Do you know them all?

A. Yes, sir.

Q. You know all the people who have offices in that building?

A. Yes, sir.

Q. And all the people who have desk room?

A. Yes, sir.

Q. You won't say that a person is not in the habit of visiting the office of C. F. Champion whose name is W. W. Ogden?

A. No, I don't know W. W. Ogden.

Q. You won't say that there was not a man by the name of W. W. Ogden, who was not the defendant here, and who was not Mr. Champion's brother or Mr. Parks, who was in the habit of visiting the office of Mr. Champion?

A. No, sir.

Q. You don't pretend to know the names of all the visitors to these offices?

A. No, sir.

Q. That is not your business and you don't care anything about it?

A. No, sir.

Q. There might have been a man calling every day at Mr. Champion's office whose name was W. W. Ogden?

A. No, sir, I can't swear to that.

Q. When you say that you don't know a man by the name of W. W. Ogden who had an office there you simply mean that nobody ever informed you that there was a man named W. W. Ogden who had an office there?

A. Yes, sir.

Q. That is all you want to be understood as saying?

A. Yes, sir.

Q. How many rooms are there in this office?

A. In Mr. Champion's office; two.

Q. How many desks?

A. Two.

Q. How many tables?

A. Well, there is—I don't know, I never paid any attention to that. There are tables in the back room.

Q. You are hired to run the elevator?

A. That is my business running the elevator, and I never paid much attention to Mr. Champion's office.

Q. How long have you been there?

A. About six months.

Q. Did you ever ask Mr. Parks who W. W. Ogden was?

A. Yes, sir.

66 Q. In Mr. Champion's presence?

A. No, sir.

Q. When did you see Mr. Champion, the defendant, in Dallas last?

A. I think it was in January.

Q. Do you remember the date in January?

A. No, sir.

Q. Was it the first part or the last part?

A. Well, really I can't tell you.

Q. Did you see Mr. Champion in Dallas in the month of February at all?

A. Well, I don't remember, it was either January or February.

Q. Don't you know? That is not very long ago.

A. That is right. I don't pay any special attention to it because it was not my business.

Q. Well, you have some recollection?

A. It is in January as far as I can remember.

Q. Assuming that it was in January that you saw him there, have you seen him in Dallas since?

A. No, sir.

Q. Do you know whether he was in Dallas at any time after the 5th of February?

A. No, sir, I don't.

Q. Did you see him in Dallas after the 5th of February?

A. No, sir.

Q. Did you ever have any conversation with Mr. Champion's brother?

A. No, sir, just to speak to him.

Mr. TISDEL: Is Elm street one of the principal business streets of Dallas?

A. Yes, sir, one of them.

Q. Do you have a great many people go up and down in the elevator every day?

A. Yes.

Q. How many floors are there in the building?

A. Five.

Q. Can you make anywhere near an approximation of the number of rooms on the floors?

A. The rooms begin at 200 and they go to 504 or '5. The first floor begins at 200, and the numbers run to 213.

Q. What about the third floor?

A. The third floor they run from 300 to 306.

Q. Only six rooms?

A. Yes, sir.

Q. That would be nineteen. Now, on the fourth floor?

A. On the fourth floor they run from 400 to 405.

Q. About five rooms on that floor?

A. Yes, sir.

Q. Now on the top floor?

A. On the fifth floor runs from 500 to 505.

Q. That is 29 or 30 rooms above the street?

A. Yes, sir.

Q. And the first floor occupied by stores?

A. There is only four offices—there is Mr. Champion's office, the Texas State office, the soda company's office—the rest are rooms. People have rooms up there.

66½ Q. There are only four business offices in the building then?

A. Yes, sir.

Q. And the other 25 rooms are occupied by people who live there?

A. Yes, sir.

Q. Now, if there is anybody in the habit of going as a visitor for instance, as Mr. David put it, in the habit of going there every day, while you might not know the name would you or would you not be apt to remember that that person came there every day?

A. Yes, sir.

Q. Do you recollect any such visitor coming there day after day?

A. No, sir.

Mr. DAVID: How long have you been running the elevator there? How long has the elevator been running?

A. Oh, it has been running for six or seven months; it ran about four years and it stopped running, and when I began working there I started the elevator running.

Q. It has been running continuously for six months?

A. Ever since I have been there.

Q. Mr. Champion's office is on the second floor?

A. Yes, sir.

Q. And you don't pretend to say that if people were in the habit of walking upstairs there——

A. Sometimes they do.

Q. Lots of people don't like to ride up in elevators, particularly in Texas, isn't that true?

A. Yes, sir.

Q. You don't say that you pretend to pay any attention to Mr. Champion's office?

A. No, sir.

Q. And if there had been any regular visitor who rode up in the elevator to Mr. Champion's office you would have known it?

A. Yes, sir.

Q. And if they walked upstairs you wouldn't have known it?

A. That is right.

Q. Those two rooms occupied by Mr. Champion as you say, there was an entrance to each?

A. Yes, sir.

Q. An entrance to each room?

A. You can go right from his room to the other.

Q. Can you enter each room from the hall?

A. Yes.

Q. Now, Champion's name is on the one door?

A. Yes, sir.

Q. Which door?

A. 201, I think, 200 or 201.

Q. You have been there six months?

A. Yes, sir.
Q. And you are reasonably certain that is the number?
A. Yes.
Q. Do you know which office Mr. Champion's desk is in?
A. Yes, 201.
Q. That is the office which you think he occupied?
A. Yes, sir.
67 Q. Is that the same one——
A. They both belong to him.
Q. Have you seen him pay the rent?
A. Yes; he paid the rent, I have collected it; he has paid it to me.
Q. Has he got a lease?
A. No, sir—I don't know whether he has or not; I can't tell about that. I didn't attend to that part of it.
Q. You don't know who rents from him?
A. No, sir.
Q. You don't know what rent is paid to him?
A. No; but there is no one occupying that other office except him.
Q. I thought you said Mr. Parks was in there?
A. He is working for Mr. Champion.
Q. How do you know?
A. Well, I don't know——
Q. Who have you talked to about this case?
A. Nobody at all.
Q. No living soul?
A. No, sir.
Q. Nobody asked you what you knew?
A. No, sir.
Q. And when you were asked to come here from Texas nobody asked you what you knew?
A. No, sir.
Q. You never told a living soul what you have known about this matter until you testified here?
A. I told the deputy marshal down there, yes.
Q. Do you mean the deputy marshal?
A. Mr. Green, I believe, is the marshal.
Q. You have never told anybody in Chicago what you knew?
A. No, sir.
Q. When you were subpœnaed to come here, the only man that you had talked to was the deputy marshal?
A. Yes, sir.
Mr. TISDEL: The marshal himself?
A. Yes, sir.
Mr. DAVID: The marshal himself?
A. Yes, sir.
Q. Told him all you knew about it?
A. Yes, sir.
Q. Amongst other things, you told them that Mr. Parks worked for Mr. Champion?
A. I didn't tell them that.
Q. He didn't ask you that?

A. No, sir.

Q. And you will say that Mr. Champion has paid him rent?

A. Mr. Champion has not paid me; Mr. Parks paid it.

Q. Didn't you say that Mr. Champion paid you?

A. If I did, I didn't mean it. Mr. Parks paid it.

Q. You don't know but what Mr. Parks himself rented those rooms?

A. I couldn't swear who rented them.

Q. You don't know but what Mr. Champion rented from Parks?

A. I don't know it.

Q. But you say Mr. Parks worked for Mr. Champion?

A. I was just guessing at it.

Q. Have you been guessing at most of your testimony here?

A. No, sir.

67½ Q. When you have been answering that Mr. Champion occupied the two rooms——

A. I didn't guess at that.

Q. Do you know anything else except that his name is on the door?

A. No, sir.

Q. And that is your only reason?

A. Yes, sir.

Q. You have never spoken a dozen words to Mr. Champion in your life?

A. No, sir.

Q. Who paid the rent last month?

A. I couldn't tell. Mr. Hardy's son is the fellow who had charge, and has been collecting it the last two months. I haven't had charge of that.

Q. Can you state one word that you ever spoke to Mr. Champion, the defendant in this case?

A. Yes; he and I were talking about putting up some electric lights in his room, and he said if I put the light in he would pay for it, and Mr. Hardy wouldn't have it.

Q. That is the only conversation you ever had with him?

A. Yes, sir.

Q. And the only reason that you know those rooms were rented by Mr. Champion, the defendant in this case, was because the name was on the door?

A. Yes, sir.

Q. And the rent was usually paid by Mr. Parks?

A. Yes, sir.

Mr. TISDEL: Mr. Parks' name on the door?

A. No, sir.

Mr. DAVID: I would like to ask if there is any contention or claim that this defendant was in Dallas at any time when it is claimed that any of these offenses charged in this complaint were committed?

Mr. TISDEL: No; there is no contention that he was there at the time. It is not admitted that he was not there, but the Government has no proof that he was there.

Testimony of E. J. Riley.

E. J. RILEY, a witness called on behalf of the prosecution, being first duly sworn, was examined in chief by Mr. Tisdel, and testified as follows:

Q. What is your name?
A. E. J. Riley.
Q. What is your business?
A. Local agent for Wells Fargo Company, Dallas, Texas.
Q. How long have you been there in that position?
A. 18 months.
Q. Have you the outgoing register of packages for the month of February?
A. I have it for certain days.
Q. Have you your book with you that shows those dates you have reference to?
A. The 14th of February, isn't it?
68 Q. Look at the outgoing sheet for the 14th of February. Now under that date did your people send a package to A. H. Benson, Wilcox, Arizona Territory?

Mr. DAVID: This testimony all goes in subject to objection.
The COMMISSIONER: Yes, sir.

A. Yes, sir.
Mr. TISDEL: And one for Samuel Abraham, Clifton, Arizona Territory?
A. Yes, sir.
Q. James A. Ward, Fresno California?
A. Yes.
Q. Paul H. Migel, San Bernardino, California?
A. Yes.
Q. Now look at the packages which I show you, and tell me if you know whether those packages went out from your office——
A. I can't identify the packages positively; I never saw them until I was shown them by the Government attorney in Dallas.
Q. Is there anything in this that shows they were shipped from Dallas?
A. Yes, sir.
Q. What is the custom with reference to these papers in your office?
A. It is put on all packages going out of Dallas.
Q. Is it put on packages coming in?
A. The stamp of the Dallas office would not be.
Q. But similar stamp?
A. Yes, sir; showing the point of origin.

Cross-examination by Mr. DAVID:

Q. Read what it says there.
A. "S. Abraham. Package. One package. Prepaid, 25 cents."

Q. Whose handwriting is that?
A. That is the bill clerk's—our bill clerk at Dallas, Texas.
Q. Is that a copy, or is that the original?
A. That is a tissue copy, taken from the original.
Q. But you don't know that this package of S. Abraham's refers to this one?
A. No, sir.
Q. It is not your handwriting?
A. No, sir.
Q. And you don't know of your own knowledge that any package was ever sent through the Wells, Fargo Express Company from Dallas, Texas, to that party?
A. No, sir.
Q. What is that date?
A. The 14th of February. I know just what the records show.
Q. The law doesn't make this a record. You don't know of your own knowledge whether any package was ever sent to this man S. Abrahams, Clifton, Arizona, on the 14th of February, 1899?
A. I didn't see the package go out; no, sir.
Mr. TISDEL: It is admitted that Mr. Riley does not know anything except what this record shows.
68½ Mr. DAVID: You don't say that that is a record in the legal sense?
Mr. TISDEL: We don't say that. We are going to ask the commissioner to draw an inference from the existing facts.
Mr. DAVID: Turn to the other items, please.
A. What do you want next?
Q. S. H. Benson, Wilcox, Arizona.
A. Yes.
Q. Now that is on the same date?
A. Yes, sir.
Q. What is there there indicating that it is February 14th?
A. This (indicating): "S. H. Benson, one package 25 cents prepaid."
Q. Now the same is true of this entry as of the other?
A. Yes, sir.
Q. You have no personal knowledge of it?
A. No, sir.
Q. As a matter of fact you have no personal knowledge that any of these packages went out?
A. I didn't see any of them.
Q. You don't know that any package was ever brought into the office on that date for S. H. Benson?
A. I didn't see the package, and I suppose I don't know it.
Q. The next one, James A. Ward, Fresno, California. "Freight waybill, Dallas, Texas, to Fresno, one package 25 cents prepaid." The same is true of that as of the other packages?
A. Yes, sir.
Q. The same is true also of the package for Paul S. Migel, San Bernardino, California, as you stated of the other packages?
A. Yes, sir.

Q. You say there is something on the packages to indicate that they went into the Wells, Fargo Express Company at Dallas, Texas?

A. Yes, sir.

Q. This stamp?

A. Yes, sir.

Q. When was the first time you saw these packages?

A. They were shown to me by the prosecuting attorney at Dallas.

Q. Where this was put on you don't know?

A. I didn't see it put on.

Q. There is no mark of identification on that stamp, is there?

A. No.

Q. What is that?

A. It indicates the originating point.

Q. There is nothing that you can identify it by as ever having been in the possession of the Wells, Fargo Express Company?

A. The stamp.

Q. There is nothing remarkable about that, the printing or anything?

A. No, sir.

Q. That is true of all the packages?

A. Yes, sir.

Q. In other words, you will not testify from the appearance of the packages themselves and the records you have here that
69 you know that these packages were ever in the possession of the Wells, Fargo Express Company?

A. I simply know the addresses on the packages correspond.

Q. Is there anything there from which you say that you know that either of these packages were ever in the Wells, Fargo Express Company?

A. No, sir; I never saw them in their possession.

Q. Do you know the defendant?

A. Yes, sir.

Q. How long have you known him?

A. About seven—perhaps eight years, seven or eight years.

Q. Do you know what is the business of the defendant?

A. No, sir; I first knew him in the advertising business, and I have not seen much of him since that.

Q. Did you ever know him by any other name except C. F. Champion?

A. No, sir.

Q. How long have you been connected with the express company?

A. About 9 or 10 years.

Q. Did you ever hear him called by any other name than that of Champion?

A. No, sir.

Q. Now when a man comes into your office to ship a package similar to these, you don't require identification of the person *to* sends it?

A. No, sir.
Q. Nor the age of the person?
A. No, sir.
Q. In fact you will ship a package without its being prepaid?
A. We usually inquire into the reliability of the man if it is not prepaid.
Q. Where they are prepaid you make no inquiry at all?
A. No questions asked.
Q. Do you know when you saw Mr. Champion last prior to his coming to Chicago?
A. No, I can't remember. The last time I remember meeting him in Dallas was a year ago next May. I don't remember meeting him since that time.

Testimony of Richard Hudson.

RICHARD HUDSON, a witness called on behalf of the prosecution, being first duly sworn, was examined in chief by Mr. Tisdel, and testified as follows:

Q. What is your name?
A. Richard Hudson.
Q. What is your business?
A. Deputy collector of customs at Deming, New Mexico.
Q. Ever see this stuff before (indicating)?
A. Yes, sir.
Q. Where did you see it?
A. I got a telegram——

Mr. DAVID: I object. I concede that he seized these things.

69½ A. I seized them from an express car that was passing through there that night that the telegram came on the orders of the special agent of the Treasury Department at El Paso, Texas.

Mr. TISDEL:

Q. Where did you seize them from?
A. From the express car going through to Arizona and California and other parts. It came from El Paso that afternoon, and I took it off that car.
Q. In the town of what?
A. Deming, — Mexico.
Q. On what road?
A. The Southern Pacific.

Cross-examination by Mr. DAVID:

Q. They were seized in transit?
A. Yes, sir.
Q. Mr. Hudson, you are the gentleman who made the complaint here?
A. Yes, sir.

Q. And you made it upon the sole fact of the seizure of these papers?
A. Yes, sir.
Q. You don't know the defendant?
A. Never saw him.

Mr. DAVID: I presume you offer these things in evidence?
Mr. TISDEL: Oh, yes.

Mr. DAVID: You made this complaint based solely upon the seizure of these packages?
A. Yes.
Q. And you don't know the defendant?
A. No, sir, never saw him before until yesterday.
Q. Did you go to Texas before you came here?
A. I came through Texas.
Q. Did you stop?
A. No, sir.
Q. Did you go to Dallas?
A. Went to Dallas but didn't get off the train there.
Q. Spoke to no one?
A. No, sir.
Q. And you have spoken with no one at Dallas, Texas?
A. No, sir, I didn't get off the train there.
Q. Did you talk to any one since you have been here about the case?
A. The United States attorney and his assistant.
Q. You haven't talked with any of the witnesses here about what you knew?
A. Not particularly; I simply met them and we walked together——
Q. No one told you what they knew?
A. Not particularly.
Q. And you made this complaint only on the information you had; this complaint was based solely on the seizure of these packages?
A. The seizure of these packages.
Mr. TISDEL: Did you ride with the district attorney from Fort Worth to Dallas?
A. He came to see me.
70 Q. Did you ride that thirty miles together on the train?
A. No, sir.
Q. Did he tell you anything about this case?
A. He told me I had to report at the district attorney's office in Chicago.
Q. You were present, were you not, when the witnesses were together and questioned and the situation talked over in the district attorney's office?
A. Yes, sir.
Q. You heard the whole story?
A. I heard them talk at different times.

Q. You were present this morning in here when I questioned them?

A. Yes, sir.

Q. And you heard me talking with them?

A. Yes, sir.

Mr. DAVID: Have you heard any more than what has been testified to here—you don't know what has been testified here?

A. No, sir.

Q. I want you to tell what you heard.

A. A general talk in the district attorney's office yesterday, and a general talk this morning, the deputy marshal and the express messenger——

Mr. DAVID: I insist that I have a right to have all the talk.

The COMMISSIONER: Tell what was said, there.

Mr. TISDEL: Tell what the marshal said and what each witness said in your hearing, as far as you recollect.

A. I didn't take much notice there except I heard the marshal say that he got these boxes that I seized—I seized eleven and he only brought four of them.

Mr. DAVID: You mean this gentleman here?

A. Yes. I said "Where are all these packages?" I had directions in the telegram——

Mr. TISDEL: What did the marshal say here?

A. The marshal said he seized these packages addressed to three men and arrested the three men, or two men down there and one of them here, and opened up one of the boxes and showed some lottery tickets, and the express messenger said he could swear they were sent from there.

Q. That is Mr. Riley?

A. Mr. Riley; and the other boy said he could testify to certain mail being delivered, and the letter-carrier testified that he delivered certain mail. I wasn't much interested in the case, only just what I heard—and that is just about all I know about it.

Q. You were not listening to the conversation for the purpose of making the complaint, were you?

A. No, sir.

Q. Have you told us practically now all that you heard that you remember; that is, I mean, heard in the conversation, that the district attorney asked you about?

A. I don't know anything more.

70½ Q. Is there anything more that you remember that you heard said by anybody in reference to this case?

A. I can't remember anything more in particular but what I have already gone over.

Testimony of G. E. Robinson.

G. E. ROBINSON, a witness called by the prosecution, being first duly sworn, was examined in chief by Mr. Tisdel, and testified as follows:

Q. What is your name?
A. G. E. Robinson.
Q. What is your business?
A. Chief officer of the deputy marshal, northern district of Texas.
Q. Do you know the defendant, Mr. Champion?
A. Yes.
Q. How long have you known him?
A. Six or seven or eight years. I got acquainted with him the latter part of 1892 or the first of 1893.
Q. Did you go into the office on Elm street with a search warrant recently?
A. Yes, sir.
Q. I will ask you if you have ever seen this stuff here?
A. Yes, sir.
Q. Where did you see it? Where did you get it?
A. I got it in the Gill building, second floor in Dallas.
Q. In whose office?
A. In Champion's office.

Mr. DAVID: What is the object of this?

Mr. TISDEL: The object is to show that a lottery business was carried on at that place, and it is offered for the purpose of connecting this testimony.

Cross-examination by Mr. DAVID:

Q. How long have you known Mr. Champion?
A. Since 1892 or 1893.
Q. Ever know him by the name of W. W. Ogden?
A. No, sir.
Q. Ever hear him called W. W. Ogden?
A. No, sir.
Q. How long have you known him?
A. Since 1893 or 1892.
Q. Whom did you find in the office when you made this seizure?
A. In the office, Charlie Park was there, and we waited for quite awhile, and then the other Champion came in, the brother of Mr. Champion here.
Q. Do you know he is his brother?
A. He was introduced by Mr. Parks as Mr. Champion's brother.
Q. Do you know he is his brother?
A. Well, Mr. Champion since I have been here told me he was his brother.
71 Q. You went into the office?
A. Yes, sir.

Q. Did you have a conversation with them?

A. We went in there for the purpose of arresting them on a warrant.

Q. You had a warrant against Parks and Champion?

A. Yes, and Mr. Champion here.

Q. You knew Mr. Champion wasn't in that city?

A. No, I didn't know it, but the boys who worked up the case knew it, I think.

Q. When was this arrest made?

A. The latter part of February.

Q. What time in February?

A. I think 27th or 28th. The search warrant was made out before.

Q. Do you know whether Mr. Champion, the defendant in this case, was in Dallas any time after the first of February?

A. I haven't seen Mr. Champion in Dallas for several months, I don't know how many months.

Q. More than two months?

A. More than two months. I don't think I saw him at the time he said he was there.

Q. How many parties were in the office at the time you came to make the arrest?

A. One Charlie Parks.

Q. What room did you find this stuff in?

A. We found that stuff (indicating) in the back room of the office.

Q. Was that the room that the defendant Champion's name was on?

A. No, sir.

Q. Wasn't there another door to that room from the hall?

A. I think that that door was fastened up.

Q. Did you try it?

A. I think I did, but I am not positive about that.

Q. You don't mean to say that there was not an entrance to that room?

A. There was a door, but my impression is that it was fastened up.

Q. At that time?

A. Yes, sir.

Q. Whether it was usually or customarily you don't know?

A. No, I don't know. There is a folding door between the two rooms.

Q. You don't know who rented that office?

A. No, sir.

Q. You don't know whether Mr. C. F. Champion authorized his name to be put on that door?

A. No, sir.

Q. There was nothing in the seizure of these things to connect the seizure in any way with the defendant, C. F. Champion, except that his name was on the door?

A. Those things (indicating).

Q. Anything at all to show that Mr. Champion is connected with any of these things?

A. Yes, Mr. Champion's name on that.

Q. There is nothing on this (indicating) — that it is a 71½ stamp for a lottery, is there?

A. My eyes are very poor, sir, and I didn't read it.

Q. Is there anything about a lottery there?

A. It speaks for itself.

Q. Did you know what business Mr. Champion was in?

A. No, I don't believe I did, not of my own personal knowledge.

Q. Did you ever transact any business with Mr. Champion?

A. No, sir, I never transacted any business with him at all.

Q. Were you acquainted with him socially?

A. Yes, always very friendly when we met on the street.

Q. Now, in the second room you found this; tell us what you found in the first room.

A. I can tell you what we found in the first room; this we found in the back room.

Q. This, indicating the white and blue circulars?

A. They were found in the back room in the closet, a kind of storage place they had.

Q. In the back room?

A. Yes.

Q. And these also?

A. They were found in the front room, in the desk.

Q. Is there anything you found in the room occupied apparently by Mr. Champion, anything in relation to any lottery?

A. Our search warrant called for the Pan-American. We took everything we found with Pan-American on it.

Q. This other you found in the closet?

A. Yes, sir.

Q. Did you break open the desk?

A. No, sir; we unlocked the desk.

Q. Did you have a key?

A. We got a key from the jailor. The boys were put in the jail.

Q. Mr. Champion, the defendant, was not there at all?

A. No, sir.

Q. These men that were there had keys to the desk?

A. Yes, sir.

Q. And who were using these desks you don't know?

A. No, sir, I don't know.

Q. Whose desks they were you don't know?

A. No, sir.

Q. This was what date in February?

A. I think it was the 1st of March; that is my impression.

Q. The seizure of these things was subsequent to the making out of the complaint?

A. Yes, sir.

Q. Of course you understood well that Mr. Champion was not in the city at that time?

A. Yes, sir.

Mr. TISDELL: Now, with reference to these boxes, were you present when either of them was opened?

A. No, sir. I don't think I was——

72 Q. Look at this. Whose initials are these?

A. Those are my initials.

Q. This box was opened for the first time yesterday?

A. Yes.

Q. Whose possession have they been in?

A. I received them from the district attorney. This was opened yesterday in the district attorney's office, and I put my initials on this box.

Q. How many were open?

A. One.

Mr. DAVID: This was opened yesterday?

A. Yes.

Q. Who brought it here?

A. I did.

Q. From where?

A. From Dallas, Texas.

Q. Who gave it to you?

A. I got it from the district attorney's office.

Testimony of Richard Hudson (Recalled).

RICHARD HUDSON recalled:

Mr. DAVID: What is there on this package to indicate that this is one of the packages you seized?

A. I addressed all of these.

Q. And that is your handwriting?

A. Yes, sir.

Testimony of G. A. Robinson (Recalled).

J. A. ROBINSON resumed:

Mr. DAVID: Where did you get this package from?

A. I got that from the district attorney's office in Dallas. His clerk gave it to me, all four of those packages.

Q. You don't know whether they had been opened before or not?

A. They were——

Q. Is there anything to show that they could not have been opened and put in the same condition again?

A. Certainly not.

Q. In other words you won't swear that these packages were received at El Paso, Texas, from Arizona with this stuff in them?

A. I don't know anything about the packages beyond what I have said.

Q. The district attorney gave it to you to take to Chicago?

A. Yes.

Q. And they were opened here?

A. One of them was, and I think that gentleman was present when this was opened.
Q. Who opened this one (indicating)?
A. I don't know.

Mr. DAVID: Then this one is eliminated?
The COMMISSIONER: I don't think that would be material.

721/2 *Testimony of T. J. Cooper.*

T. J. COOPER, a witness called on behalf of the defendant, being first duly sworn, was examined in chief by Mr. David, and testified as follows:

Q. What is your name?
A. T. J. Cooper.
Q. What is your business?
A. I am in the subscription-book business.
Q. Associated with the defendant, C. F. Champion?
A. Yes, sir.
Q. Give us your address please?
A. 17 Quincy street.
Q. Is that where you live or your place of business?
A. Place of business.
Q. What kind of books do you sell?
A. Why we sell various books, the one we are pushing at present is the history of our war with Spain.
Q. C. F. Champion was with you in the business?
A. Yes, sir.
Q. How long have you known Mr. Champion?
A. I have known Mr. Champion about three years.
Q. Where did you first get acquainted with him?
A. Dallas, Texas.
Q. Did you ever know him under the name of W. W. Ogden?
A. No, sir.
Q. Did you ever hear him called W. W. Ogden?
A. No, sir.
Q. How well have you known Mr. Champion?
A. Well, I have known Mr. Champion very well.
Q. What was your business in Dallas?
A. My business there was subscription books; and I was agent for the Hammond typewriter, and in connection with that I conducted a rubber-stamp business.
Q. How long have you been in business with Mr. Champion?
A. Since about the 14th of November.
Q. Since the 1st day of February, 1899, how frequently have you seen Mr. Champion?
A. I think I have seen Mr. Champion on an average every other day.
Q. Here in Chicago?
A. Yes, sir.

Q. Has there been any interval since the first of February at any time, that you haven't seen Mr. Champion for two days?

A. No, sir; I don't think there has ever been.

Q. Where would you see him?

A. Part of the time at his house and part of the time at his place of business.

Q. Assuming now that it would take four days to travel to Dallas, Texas, and return, would it be possible for Mr. Champion,
73 any time since the first of February, 1899, to have gone to Dallas, Texas, and return?

A. No, sir.

Q. Without your having known it?

A. No, sir, there is not.

Q. Do you know Mr. Champion was not in Dallas, Texas, from the first of February, up to the present time?

A. Yes, sir, I do.

Q. And you say that during most of that interval you have not failed to see him within two days?

A. To the best of my judgment it was about every other day.

Q Can you state whether or not Mr. Champion was in Chicago on the 14th of February?

A. I think he was.

Cross-examination by Mr. TISDEL:

Q. How long were you in business in Texas?

A. I left Texas a year ago the 15th of last month.

Q. Were you ever in business in Dallas or any other portion of Texas with Mr. Champion?

A. No, sir.

Q. Have you ever been in the lottery business yourself?

A. No, sir.

Q. Did you or did you not ever tell anybody that you had been in the lottery business with Mr. Champion in Texas?

A. No, sir, I didn't.

Q. Do you know D. C. Matson?

A. Yes, sir.

Q. Did you or did you not tell D. C. Matson that you had been engaged in the lottery business in Texas?

Objected to.

Q. Did you see Mr. Champion on the 14th of February?

(Witness consults memorandum book.)

Q. Before looking at that, what is it?

A. This is an account book, in connection with my business. This memorandum shows that I saw him on the 15th.

Q. What is the memorandum? What does it show? What is it you know that is on this?

A. I received from him on that day $10.

Q. Let us see that. You remember receiving that $10?

A. Yes, sir.

Q. Did he give it to you personally?
A. Yes, sir.
Q. In money or in check?
A. In money.
Mr. DAVID: Have you any other items there, subsequent to the 15th when you received money from him?
A. I received money from him on the 20th.
Q. How much is that?
A. $18.
Q. What was that, money or check?
A. Check.
Q. Do you know what check it was?
A. Well, I couldn't say as to that.
Q. Do you do a banking business?
A. This is a check I received from Mr. Champion at his home.
Q. Do you keep an individual account?
A. No, sir, I do not.
Q. Do you know where you got the check cashed?
A. Yes, sir, the First national bank.
Mr. TISDEL: Was that Mr. Champion's personal check?
A. Yes, sir.

Clerk's Certificate.

STATE OF ILLINOIS, } ss:
County of Cook, }

Charles W. Phillips, being first duly sworn, on oath says that he is a court stenographer in the courts of Cook county and Federal courts holden in Chicago, and that he is as such stenographer competent to take down the testimony of witnesses in short-hand, and affiant further says that on the fourteenth day of March, 1899, he took down the testimony in short-hand of the witnesses heard and examined in the case of The United States *vs* C. F. Champion, before Lewis F. Mason, United States commissioner and that the foregoing thirty-nine pages of typewritten matter *is* a complete transcript of such testimony except the exhibits offered in evidence.

CHAS. W. PHILLIPS.

Subscribed and sworn to before me this 17th day of March, A. D. 1899.

JAMES HARTNETT,
Notary Public.

[SEAL.]

Writ allowed & writ of certiorari granted both returnable before Judge Grosscup, Friday, March 24, 1899, at 10.30 a. m. Surety for appearance in the sum of $2,500.

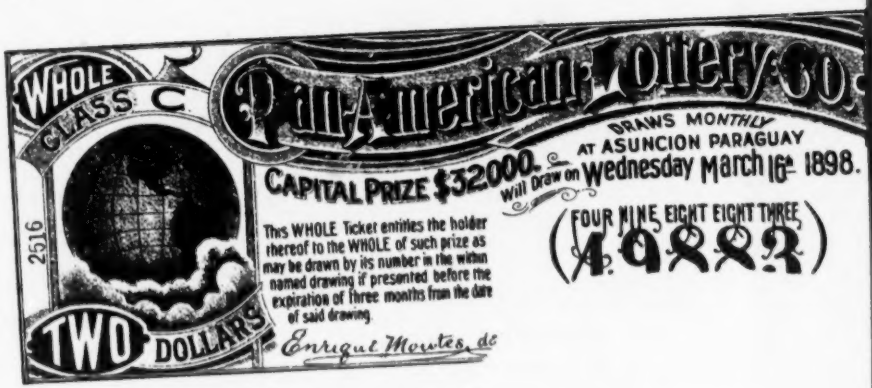
JAS. G. JENKINS.

22 March, '99.

Exhibit 1.

53

EX. 1.


WHOLE
CLASS C
Pan-American Lottery Co.
DRAWS MONTHLY
AT ASUNCION PARAGUAY
CAPITAL PRIZE $32000.
Will Draw on Wednesday March 16th 1898.
2516
This WHOLE Ticket entitles the holder thereof to the WHOLE of such prize as may be drawn by its number in the within named drawing if presented before the expiration of three months from the date of said drawing.
FOUR NINE EIGHT EIGHT THREE
TWO DOLLARS
Enrique Montes de

(Endorsed) Filed Mar. 22, 1899.

S. W. BURNHAM,
Clerk.

Exhibit 2—Advertisement. 54

EXHIBIT 2.

THE
PAN-AMERICAN
LOTTERY
DRAWS

Next Wednesday

$32,000.00	for	$2
$16,000.00	for	$1
$8,000.00	for	50c
$4,000.00	for	25c

All reliable dealers handle the tickets.

You cannot win unless you take a chance, and SOMEBODY who takes a chance will win a **FORTUNE.**

All prizes cashed here in the city.

(Endorsed) Filed Mar 22, 1899.

S. W. BURNHAM,
Clerk.

75 EXHIBIT 3.

Circular Letter.

EXHIBIT 3.

TEXAS STATE AGENCY

PAN-AMERICAN LOTTERY COMPANY

CAPITAL PAID IN, $1,000,000.00.

Dallas, Tex......

DEAR SIR:-

I have received your report, with contents as stated by you, and have balanced your account for last drawing. Thanking you, I am,

Very respectfully,

(Endorsed:) Filed Mar. 22, 1899. S. W. Burnham, clerk.

EXHIBIT 4.

Directions.

EXHIBIT 4.

On .....

Put Unsold Tickets and Cash, less Commission, in a Box and ship by Express to

C. F. CHAMPION,
DALLAS, TEXAS.

(Endorsed :) Filed Mar. 22, 1899. S. W. Burnham, clerk.

FOLD OUT IS TOO LARGE TO BE FILMED

EXHIBIT 5.

OFFICIAL DRAWING
of the
PAN-AMERICAN LOTTERY
MONTHLY DRAWING
CLASS "J."

Drawn in the City of Asuncion, Paraguay. SEPTEMBER 21st, 1898. UNDER THE SUPERVISION OF

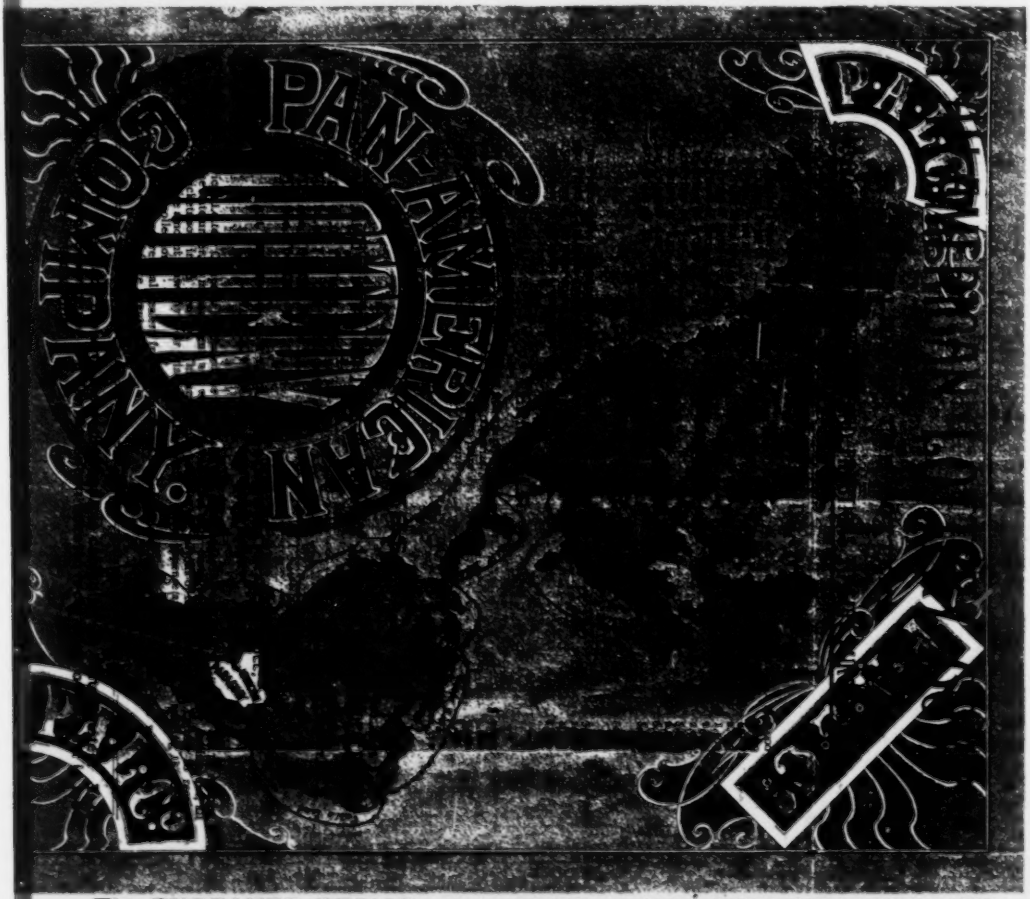
ENRIQUE MONTES DE LEON Manager. BERNARDO LOPEZ, Interventor.

(Indorsed) Filed Mar. 22, 1899.

S. W. BURNHAM,
Clerk.

150 prizes of $ 8 each, approximating to 2,000 prize.. 1,200

10—360



The ENGRAVED DESIGN on the BACK, and the ENGRAVED HEADING of this list, patents for which have been applied for, are used to insure our patrons AGAINST DECEPTION in procuring GENUINE OFFICIAL LISTS OF THE PAN-AMERICAN DRAWING.

76 EXHIBIT 6.

Circular of Pan-American Lottery Co.

EXHIBIT 6.

Our record in the past is our reference for the future.

Pan-American Lottery Company, Asuncion, Paraguay.

Capital stock, $1,000,000.

(Cut of building in Asuncion where drawings are held.)

Dates of drawings.

Class A	Wednesday, January 18th, 1899
Class B	Wednesday, February 15th, 1899
Class C	Wednesday, March 15th, 1899
Class D	Wednesday, April 19th, 1899
Class E	Wednesday, May 17th, 1899
Class F	Wednesday, June 21st, 1899
Class G	Wednesday, July 19th, 1899
Class H	Wednesday, August 16th, 1899
Class J	Wednesday, September 20th, 1899
Class K	Wednesday, October 18th, 1899
Class L	Wednesday, November 15th, 1899
Class M	Wednesday, December 20th, 1899

Pan-American Lottery Co.

Plan of the lottery.

100,000 tickets in wholes and fractions to suit purchasers.

Monthly ordinary drawings.

1	capital prize of	$32 000
1	capital prize of	15 000
1	grand prize of	5,000
1	grand prize of	2,000
3	prizes of $500	1,500
10	prizes of $200	2,000
20	prizes of $100	2,000
100	prizes of $50	5,000
200	prizes of $30	6,000
300	prizes of $20	6,000
500	prizes of $10	5,000

Approximate Prizes.

150	prizes of	$20 each, approximating to	$32,000 prize	3,000
150	prizes of	10 each, approximating to	15,000 prize	1,500
150	prizes of	8 each, approximating to	5,000 prize	1,200
150	prizes of	8 each, approximating to	2,000 prize	1,200

76½ *Terminals.*

999	terminals of $10 each, decided by the $32,000 prize.	9,990
999	terminals of $10 each, decided by the $15,000 prize.	9,990
999	terminals of $4 each, decided by the $5,000 prize.	3,996
999	terminals of $4 each, decided by the $2,000 prize.	3,996
5,733	prizes amounting to	$116,372

The numbers from 1 to 100,000, corresponding with those numbers on the tickets printed on separate slips of paper, are encircled with small rubber tubes, and place- in one wheel. The prizes similarly printed and encircled, are placed in another wheel. The wheels are then revolved, and a number is drawn from the wheel of numbers and at the same time a prize is drawn from the other wheel. The number and prize drawn out are opened and exhibited to the audience and registered by the commissioners, the prize being placed against the number drawn. This operation is repeated until all the prizes are drawn out.

Explanation of Approximation Prizes.

The series of seventy-five numbers on each side of the numbers drawing the four largest prizes in each drawing will be entitled to the 600 approximation prizes. For example: If ticket No. 27325 draws the $32,000 prize, those tickets numbered from 27250 to 27400 inclusive (150 in all) will each be entitled to $20. If ticket No. 750 draws the $15,000 prize, those tickets numbered from 675 to 825, inclusive, will each be entitled to $10, and this rule applies to tickets numbered so as to come within the seventy-five numbers on each side of the tickets drawing the $5,000 and $2,000 prizes respectively, and all such tickets will be entitled to $8.

Terminal Prizes.

The 3,996 terminal prizes will be determined by the two terminal figures of the numbers drawing the four largest prizes in each drawing. For example: If the number drawing the $15,000 prize ends with 31, then all other tickets where the numbers end with 31 will be entitled to $10. If the number drawing the $32,000 prize ends with 62 or as the case may be, then all other tickets where the number ends with 62 will be entitled to $10, and this rule applies to tickets bearing the two last figures of the tickets drawing the $5,000 and $2,000 prizes respectively, all such tickets being entitled to $4.

77 *Price of Tickets.*

Whole tickets, $2.00; halves, $1.00; quarters, 50c.; eighths, 25c.

Important Notice.

Immediately after each drawing the entire result is cabled to the United States. This makes it possible for every buyer of a Pan-

American ticket to receive the official list in less than one week after the drawing.

The Pan-American Lottery Co.

Has its offices in Asuncion, Paraguay, and all its drawings are held in the lottery building in that city, in the presence of the general public and under the supervision of a manager and inspector appointed by the government.

Its president, General Francisco Villalonga, and the manager, Don Enrique Montes de Leon, are gentlemen of character and known integrity.

The capital stock is $1,000,000, and the number of tickets issued 100,000.

The prizes are more liberal than those of any other lottery company. For example:

For $2.00 you can win	$32,000
For $1.00 you can win	16,000
For 50c. you can win	8,000
For 25c. you can win	4,000

The Pan American Lottery Company pays 5,733 prizes. No other company in the world distributes so large a number.

In September, 1893, the Pan-American Lottery Company established a general agency in the United States. Today its tickets are known throughout America, and its liberal plan, perfectly square, fair dealing, and the prompt payment of many large prizes sold in the United States, have firmly established it in the public favor.

All prizes sold in the United States are payable in full, without delay, in American money.

The Pan-American Lottery Company has placed its business under the control of general State agents, who will at all times be prepared to pay in full all prizes drawn in the Pan-American lottery.

The general State agents will keep deposits with the following national banks:

77½ Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Neb.
Franklin national bank, New York.
First National Bank of San Francisco, California.

In nearly all towns there are local dealers from whom Pan-American tickets can be obtained, and who will furnish the name and address of the general State agent.

Pan-American Lottery Company,

Asuncion, Parrguay.

Capital stock paid in, $1,000,000.

Special Features.

Our general State agents will give constant and careful attention to every detail of the company's business, and will pay, without delay or discount, all Pan-American prizes, thus relieving purchasers of Pan-American tickets of the delay, expense and annoyance of sending prize tickets for collection.

The general State agents will keep deposits with the following national banks:

Equitable national bank, Cincinnati, Ohio.
Third national bank, St. Louis, Mo.
City national bank, Dallas, Texas.
National Bank of Commerce, Omaha, Neb.
Franklin national bank, New York.
First National Bank of San Francisco, California.
Our record in the past is our reference for the future.

For $2.00 you can draw	$32,000
For $1.00 you can draw	16,000
For 50c. you can draw	8,000
For 25c. you can draw	4,000

No other lottery company offers such chances.

Before the existence of the last lottery law nearly all the great express companies in America, and many of the prominent banks, frequently collected the capital prizes of the Pan-American lottery. Certificates signed by express companies and banks, proving, beyond a doubt, the absolute truth of this statement, can be had by applying to our general State agents throughout the country, or from almost any local dealer.

(Endorsed:) Filed Mar. 22, 1889. S. W. Burnham, clerk.

78 On the same day to wit: the twenty-second day of March, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause before the Hon. James G. Jenkins, circuit judge, appears the following entry to wit:

Order of M'ch 22, 1899, Granting Writ of Habeas Corpus.

Order of March 22, 1899.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

Petition.

Now comes the petitioner by his attorneys and files his petition for a writ of *habeas corpus*, and the court having inspected said peti-

tion and the exhibits thereto attached orders that a writ of *habeas corpus* issue forthwith as prayed in said petition.

This cause having come on to be heard upon the motion of said petitioner to be enlarged upon and released from custody pending the determination of his said petition, it is ordered that the said petitioner be enlarged on bail of *habeas corpus* heretofore issued herein until the further order of the court herein, upon his entering in a recognizance in the penal sum of twenty-five hundred dollars ($2,500) and depositing with the clerk of the court as security for his appearance checks on the First National Bank of Chicago, duly certified by such bank in the sum of twenty-five hundred dollars ($2,500) and order that writ of certiorari issue as prayed.

And on the same day to wit: the twenty-second day of March, 1899, there issued out of the clerk's office of said court a certain writ of *habeas corpus*, directed to the marshal of said district to execute, which said writ of *habeas corpus*, together with the return of the marshal thereon endorsed, is in the words and figures following, to wit:

And on the same day, to wit: the twenty-second day of March, 1899, there issued out of the clerk's office a writ of *habeas corpus*, directed to the marshal of said district to execute, which said writ of *habeas corpus*, together with the marshal's return thereon endorsed, is in the words and figures following, to wit:

78½ *Writ of Habeas Corpus, March 22, 1899.*

CIRCUIT COURT OF THE UNITED STATES OF AMERICA, } ss.:
Northern District of Illinois, Northern Division, }

The United States of America to John C. Ames, United States marshal for the northern district of Illinois, Greeting:

We command you that you do forthwith without excuse or delay, bring or cause to be brought before the circuit court of the United States of America, for the northern district of Illinois, now sitting in the court-room of said circuit court, in the city of Chicago, in said district, the body of C. F. Champion, by whatever name or addition he is known or called, and who is unlawfully detained in your custody, as it is said, together with the day and cause of his caption and detention, then and there to perform and abide such order and direction as our said circuit court shall make in that behalf. Hereof make due return under the penalty of what the law directs.

To the marshal of the northern district of Illinois to execute.

Witness, the Hon. Melville W. Fuller, Chief Justice of the United States of America, at Chicago, aforesaid, this twenty-second day of March, in the year of our Lord one thousand eight hundred and ninety-nine and of our Independence the 123rd year.

[SEAL.] S. W. BURNHAM, *Clerk.*

(Endorsed:) Gen. No., 25119. "By the *habeas corpus* act." Circuit court United States, northern district of Illinois, northern division. In the matter of the petition of C. F. Champion for a writ of *habeas corpus*. Writ of *habeas corpus*, returnable forthwith. S. W. Burnham, clerk. Joseph B. David, att'y for petitioner.

79 *Return to Writ. Filed M'ch* 24, 1899.

Before the Hon. Peter S. Grosscup, judge.

In the Circuit Court of the United States of America for the Northern District of Illinois, Northern Division.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

Marshal's Return to Writ.

I, John C. Ames, hereby certify and make return to the writ of *habeas corpus* issued in this case that I am the marshal of the United States for the northern district of Illinois, and that I, on the twenty-first and twenty-second days of March, 1899, held the above-named petitioner in my custody as such marshal by virtue of a commitment issued by Lewis F. Mason, United States commissioner, on March twenty-first, A. D. 1899, which is set forth in full in the petition in this case, and by virtue of a certain order of removal made by the Hon. Christian C. Kohlsaat, as judge of this district, on the twenty-first day of March, A. D. 1899, directing me as such marshal, to forthwith remove the said petitioner herein to the northern district of Texas, in the said United States, and there deliver him to the marshal of that district, to be dealt with according to law, which said order of removal is, also, set forth in full in the said petition.

I do further certify and return that on the said twenty-second day of March, 1899, the said petitioner, C. F. Champion, applied to the Honorable James G. Jenkins, acting circuit judge of the United States court, for a writ of *habeas corpus*, and, on petitioner's motion, the said judge of said court entered an order in said matter, that the said petitioner be enlarged upon bail of *habeas corpus* until the further order of the court in said *habeas corpus* matter, upon his entering in a recognizance in the penal sum of twenty-five hundred dollars ($2,500) and depositing with the clerk of the court as security for his appearance checks on the First National Bank of Chicago, duly certified by such bank, in the sum of twenty-five hundred dollars, with which order the said petitioner complied, and was admitted to bail, pending said proceedings, which order is more fully shown by a copy thereof and the certificate of the clerk hereto attached and marked Exhibit "A."

79½ I do further certify and return that on the said petitioner complying with the terms of said order, I admitted the said petitioner to bail, in conformity with said order.

I do further return that by virtue of the terms of the bail bond

it will become the duty of the said petitioner to appear before the court on the hearing of said *habeas corpus* matter.

I do further certify and return that, as the petitioner is now enlarged upon bail, as aforesaid, it is impossible for me to produce the body of the said petitioner, C. F. Champion, now before your honor, but that it is the duty of the said C. F. Champion there to appear and be, as required by his bail bond.

JOHN C. AMES,
United States Marshal.

EXHIBIT A.

Certified Order of M'ch 22, 1899.

"EXHIBIT A."

Order.

Circuit Court of the United States, Northern District of Illinois, Northern Division.

WEDNESDAY, *March* 22, 1899.

Present: Hon. James G. Jenkins, circuit judge.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

This cause having come on to be heard upon the motion of said petitioner to be enlarged upon and released from custody pending the determination of his said petition, it is ordered that the said petitioner be enlarged upon bail of *habeas corpus* heretofore issued herein, until the further order of the court therein, upon his entering in a recognizance in the penal sum of twenty-five hundred dollars ($2,500) and depositing with the clerk of the court as security for his appearance checks on the First National Bank of Chicago, duly certified by such bank in the sum of twenty-five hundred dollars ($2,500), and order for writ of certiorari as prayed.

80 NORTHERN DISTRICT OF ILLINOIS, } ss:
Northern Division, }

I, S. W. Burnham, clerk of the circuit court of the United States, for said northern district of Illinois, do hereby certify the above and foregoing to be a true and correct copy of the order entered of record in said court, on the 22nd day of March, A. D. 1899, in the matter of the petition of C. F. Champion for a writ of *habeas corpus*, as the same appears from the original, and I further certify that the recognizance of said petitioner has been taken and filed and twenty-five hundred dollars ($2,500) in certified checks on First National Bank of Chicago in accordance with said order have been received by me.

In testimony whereof I have hereunto set my hand and affixed

the seal of said court, at my office in Chicago, in said district, this 22nd day of March, A. D. 1899.

[SEAL.] S. W. BURNHAM, *Clerk.*

(Endorsed:) Filed Mar. 24, 1899. S. W. Burnham, clerk.

On the same day, to wit: the twenty-second day of March, 1899, came the petitioner in said entitled cause and filed in the clerk's office of said court a certain recognizance, which said recognizance is in the words and figures following, to wit:

Recognizance. Filed M'ch 22, 1899.

Recognizance.

District Court of the United States, Northern District of Illinois, Northern Division.

I, C. F. Champion, principal *and* —, acknowledge myself to be indebted unto the United States of America, in the sum of twenty-five hundred dollars, lawful money of the United States, to be levied of my goods and chattels, lands and tenements, upon this condition:

That I, the said C. F. Champion shall personally be and appear before the circuit court of the said United States for the northern district of Illinois on Friday, March 24, 1899, at 10.30 a. m., before Hon. Peter S. Grosscup from day to day during the present
80½ term thereof, now being holden at the court-house of the said United States, in the city of Chicago, in the northern division of the said district, and from day to day during subsequent terms of the said court, there to abide the order of said court on the writ of *habeas corpus* issued in case number 25119 now pending and undetermined in said court and will abide the order and judgment of the said court in this behalf, and not depart the said court without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

C. F. CHAMPION. [SEAL.]

Subscribed and acknowledged this 22nd day of March, 1899, before me—

S. W. BURNHAM,
Clerk of U. S. Circuit Court, North. Dist. Illinois.

Approved this 22d day of March, 1899.

S. W. BURNHAM, *Clerk.*

(Endorsed:) Filed March 22, 1899. S. W. Burnham, clerk.

And on the twenty third day of March, 1899, a writ of certiorari issued out of the clerk's office of said court directed to the marshal to execute, which said writ of certiorari, together with the marshal's return thereon endorsed is in the words and figures following, to wit:

Writ of Certiorari. Issued M'ch 23, 1899.

Writ of certiorari.

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, Northern Division, }

The United States of America to Louis F. Mason, Esq, United States commissioner, Greeting:

Whereas it has been made to appear from the petition of C. F. Champion now pending in this court, that you, the said Lewis F. Mason, have in your custody and control certain records and transcripts of proceedings in the case of said C. F. Champion, which are required on the hearing of the petition of said Champion to
81 be discharged under a writ of *habeas corpus* heretofore issued in this court.

We, therefore, command you, Lewis F. Mason, as United States commissioner, that you cause to be transmitted to our circuit court of the United States of America for the northern district of Illinois, at Chicago, in the northern division of said district with all convenient speed, all records and proceedings before you, Lewis F. Mason, as United States commissioner, touching the arrest, apprehension, examination and commitment of the said C. F. Champion and this writ is hereby made returnable at 10.30 o'clock a. m. Friday, March 24, 1899.

To the marshal/ of the northern district of Illinois to execute.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States of America, at Chicago aforesaid, this 23rd day of March in the year of our Lord one thousand eight hundred and ninety-nine, and of our Independence the one hundred and twenty-third year.

[SEAL.] S. W. BURNHAM, *Clerk.*

Marshal's Return.

I have served the within writ by reading the same to and within the presence and hearing of Lewis F. Mason, United States comm'r, at the same time giving him a true copy thereof, on the 23rd day of March, 1899.

JOHN C. AMES,
U. S. Marshal.
G. H. VOSS, *Deputy.*

(Endorsed:) Filed Mar. 24, 1899. S. W. Burnham, clerk.

And on the twenty-fourth day of March, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause before the Hon. James G. Jenkins, circuit judge, appears the following entry, to wit:

Trial, M'ch 24, 1899.

Order of March 24, 1899.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.* 25119.

Now again comes the said petitioner by his attorney and the marshal comes also by the district attorney, and it appearing
81½ from the return of said marshal this day filed herein, that said petitioner had been enlarged on bail by entering in a recognizance in the penal sum of twenty-five hundred dollars and depositing with the clerk as security for his appearance checks on the First National Bank of Chicago, duly certified by said bank in the sum of twenty-five hundred dollars in accordance with the order heretofore entered herein, and the motion of said petitioner to be discharged under said writ having been set down to be heard on this day by the Honorable Peter S. Grosscup, circuit judge, and it appearing that said judge is unable to hear the same on account of illness. By agreement of counsel, it is ordered that said writ be made returnable and be heard before his honor Judge Jenkins circuit judge forthwith.

And now comes the petitioner in his own proper person and by counsel, and the marshal comes also by the district attorney and now comes on to be heard the said application of said petitioner to be discharged from custody, and the court having heard the same in part when the hour for adjournment arrived, the further trial of this cause is postponed until Monday next at 2 o'clock p. m.

Afterwards, to wit, on the eleventh day of April, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause, before the Honorable James G. Jenkins, circuit judge, appears the following entry, to wit: entered *nunc pro tunc* as of March 24, 1899:

Order of April 11, 1899, *Granting Leave to File Amendment to Petition.*

Order giving leave to file amendment to petition.

In the Matter of C. F. CHAMPION. Petition of Writ of *Habeas Corpus.* 25119.

It appearing to the court that on the twenty-fourth day of March, 1899, an amendment to the petition was filed by said Champion in said cause, and the order giving leave to file the same having been made but not appearing of record in said cause, it is hereby ordered that the same be now engrossed on the journal of said court *nunc pro tunc* as of said March 24, 1899.

And on the twenty-fourth day of March, 1899, came the petitioner, by his attorney, and filed in the clerk's office of said court an

amended petition, which said amended petition is in the words and figures following, to wit:

82 *Amended Petition. Filed March* 24, 1899.

Amended petition.

UNITED STATES OF AMERICA, }
State of Illinois. }

In the Circuit Court of the United States of America, Northern Division of Illinois.

In the Matter of C. F. CHAMPION.

Petition for Writ of Habeas Corpus and Writ of Certiorari.

Amendment to said petition filed herein by leave of court first had and obtained.

Your petitioner further represents unto your honor that said warrant of removal for this petitioner, issued by said Hon. Christian C. Kohlsaat, said judge of said district court, is void because the same does not show upon its face with sufficient certainty that this petitioner is charged with the violation of any offense contrary to the statutes of the United States of America, and said warrant of removal is void because the said warrant of commitment for this petitioner issued by said Lewis F. Mason, said United States commissioner, upon which said warrant of commitment said warrant of removal was issued, is and was void, as said warrant of commitment does not show upon its face that this petitioner was committed to the custody of said United States marshal for any crime, misdemeanor or offence contrary to any statute or law of the United States of America.

This petitioner further represents unto your honor that his detention and imprisonment on said warrant of removal is contrary to law because said warrant of commitment issued by said Lewis F. Mason, said United States commissioner, was issued without jurisdiction of him, the said Lewis F. Mason, as such United States commissioner as the alleged amended complaint filed before said United States commissioner, Lewis F. Mason, was not an amended complaint since the original complaint of the copy filed before said United States commissioner, Lewis F. Mason, was sworn to by a person other and different from the person who executed, made oath and subscribed to said alleged amended complaint, and said United States commissioner, Lewis F. Mason, was without any jurisdiction to conduct any examination of this petitioner touching the

82½ offenses alleged in said alleged amended complaint by reason of the fact that no legal process was ever issued by said United States commissioner, Lewis F. Mason, by which the body of this petitioner was within the lawful jurisdiction of said United States commissioner, Lewis F. Mason.

And for divers other reasons apparent from the record and proceedings of said Lewis F. Mason, said United States commissioner, and said Christian C. Kohlsaat, said judge, which said records are before this honorable court now for inspection, the imprisonment of this petitioner by said John C. Ames, said marshal, is illegal, unjust and contrary to law.

C. F. CHAMPION.

JOSEPH B. DAVID,
Att'y for Pet'n'r.

UNITED STATES OF AMERICA, }
State of Illinois. }

Before me, S. W. Burnham, clerk of the said circuit court of the United States in and for the northern district of Illinois, personally appeared C. F. Champion, personally known to me to be the same person who subscribed the foregoing amended petition, who being by me first duly sworn on oath says that he has read the foregoing amended petition by him subscribed and knows the contents thereof and the same is true in substance and in fact.

C. F. CHAMPION.

Subscribed and sworn before me this 24th day of March, A. D. 1899.

S. W. BURNHAM,
Clerk U. S. Circuit Court.

(Endorsed:) Filed Mar. 24, 1899. S. W. Burnham, clerk.

And on the twenty-seventh day of March, 1899, there *was* filed in the clerk's office of said court a certain transcript of proceedings and copies of papers before Lewis F. Mason, a United States commissioner, which said transcript of proceedings and papers are in words and figures following, to wit:

83 *Minutes of Record of Proceedings.*

Transcript of proceedings and papers before Lewis F. Mason, U. S. commissioner.

UNITED STATES OF AMERICA, }
Northern District of Illinois. }

Before me, Lewis F. Mason, a United States commissioner for said district, copy complaint, and affidavit was filed before me on this third day of March, 1899, by S. H. Bethea, United States district attorney and sworn to by S. B. Farish, charging in substance that on or about the 20th day of February, 1899, at Dallas, Texas, in said district, the defendants, W. F. Champion, C. B. Park and C. F. Champion, alias W. W. Ogden in violation of section 5440 of the Revised Statutes of the United States, did unlawfully conspire to commit an offense against the laws of the United States, to wit: did transport lottery tickets etc.

On March 3rd, 1899, issued warrant to John C. Ames, U. S. marshal returnable before —— ——.

On March 22nd, 1899, warrant returned endorsed in substance as follows:

"I have served within warrant by arresting C. F. Champion and have him now before U. S. Commissioner Mason, C. F. Champion and C. B. Park not found.

J. C. AMES,
U. S. Marshal.
G. H. VOSS, *Dep'y.*

Fees $10.76."

On March 6th, 1899, issued subpœna for the following witnesses in behalf of U. S.: D. A. Robinson, E. J. Reiley, P. J. Arnold P. H. Nesmith, all of Dallas, Texas, *all of Dallas, Texas.*

On March 13, 1899, said subpœna was returned and indorsed as follows:

"Served on within-named E. J. Riley, P. I. Arnold, P. H. Nesmith, this 10th day of March.

S. H. GREEN,
U. S. Marshal.
D. H. ROBINSON, *Dep'y.*

Served on D. A. Robinson this 10th day of March.

S. H. GREEN,
U. S. Marshal.

Fees $1.50."

On March 3rd, 1899, defendant, C. F. Champion — brought before me, the said commissioner at my office in the city of Chicago, in said district by G. H. Voss, deputy, U. S. marshal and the complaint was then and there fully read and explained to the said defendant, who thereupon, for plea, said he is "not guilty" as charged in the said complaint.

And thereupon on motion to that effect, made by the defendant, this hearing was continued until the 13th day of March, 1899,
83½ and defendant was required to give bond pending examination in the sum of $1,000.00 which he did do.

On March 13th, 1899, pursuant to the continuance of March 3rd, 1899, defendant C. F. Champion was brought before the commissioner at my office in the said district by G. H. Voss, dep'y U. S. marshal, and the defendant being present, the following witnesses were sworn and examined on the part of the plaintiff, E. J. Riley. Thereupon on motion to that effect made by the plaintiff, this hearing was continued until the 14th day of March, and the said defendant was required to give bond pending examination in the sum of $1,000.00 which he did do.

On March 14th plaintiff filed amended complaint signed by Richard Hudson, charging C. F. Champion with transporting lottery tickets in violation of chapter 191, act of March 2nd, 1895.

On March 14th, in pursuance of continuance of March 13th, de-

fendant C. F. Champion was brought before me, said commissioner at my office in said district, by G. H. Voss, dep'y U. S. marshal and the defendant being present the following witnesses were sworn and examined on the part of the plaintiff, P. I. Arnold, R. Hudson, P. H. Nesmith, D. A. Robinson and upon motion of defendant the hearing was continued until the 21st day of March, at 9.30 a. m.

March 21st, 1899, pursuant to the continuance of March 14, 1899, defendant brought before me by Deputy G. H. Voss, and from the evidence of the said witnesses it appearing to me, the commissioner that the laws of the United States have been violated as charged in the complaint, and that there is probable cause shown to believe the defendant guilty of the alleged offense, it was ordered that he give bond in the sum of $1,000 for his appearance before the United States district court for the northern district of Texas, to be held on the first Monday of April, 1899, at Dallas, Texas, to answer said charge, and that in default of same, he stand committed, and the defendant failing to give said bond was committed to jail in Cook county, Illinois, there to remain until discharged by due course of law.

March 23rd, mittimus returned, endorsed in substance as follows:

"Executed by retaining the within-named defendant in my custody and taking him before the judge of the United States district court who signed a warrant for his removal to the northern district of Texas on the 21st day of March, 1899.

JOHN C. AMES,
U. S. Marshal,
By G. H. VOSS,
Deputy Marshal."

I, Lewis F. Mason, do hereby certify that the above and foregoing is a true copy of the minutes of my United States commis-
84 sioner's record of proceedings in criminal cases appearing on page 76 in the case of The United States of America *vs.* W. F. Champion, C. B. Park, C. F. Champion alias W. W. Ogden.

LEWIS F. MASON,
U. S. Commissioner.

Dated Chicago, March 23, 1899.

Affidavit of L. B. Farish.

UNITED STATES OF AMERICA, }
Northern District of Texas. }

Before me, Charles H. Lednum, a United States commissioner for the northern district of Texas, personally appeared this day L. N. Farish, who being by me first duly sworn, deposes and says upon his own knowledge and upon information, received from an official investigation, which he believes to be true and correct, that on or about the 20th day of February, A. D. 1899, at Dallas, Dallas county, Texas, in the northern district of Texas, one W. F. Champion, and one C. B. Park, and one C. F. Champion, alias W. W. Ogden, in

violation of section 5440 of the Revised Statutes of the United States, did unlawfully and wilfully conspire together to commit an offense against the United States laws, to wit: did for the purpose of disposing of the same, transport and cause to be transported and did deposit for the purpose of being tra[illegible]rted from Dallas in the State of Texas to Fresno in the State of [illegible]fornia, one certain box and package of lottery tickets and advertisements and certificates and papers and instruments representing a ticket for a chance and share and interest in and dependent upon the event of a certain lottery called the Pan-American Lottery Company of Paraquay, South America.

2nd count. And the said deponent aforesaid further says under oath upon investigation made as aforesaid that the said W. F. Champion and C. B. Park and C. F. Champion alias W. W. Ogden, did so conspire together to commit an offense against the laws of the United States, to wit: an offense against chapter 191, 28th Statutes at Large, 963, and in pursuance of such conspiracy did unlawfully and wilfully further deposit certain boxes and packages addressed to ten other divers and sundry parties domiciled and living outside of the State of Texas, but in the United States, and then the said W. F. Champion and C. B. Park and C. F. Champion, alias W. W. Ogden, did deposit the said boxes and packages with the Wells, Fargo Express Company in Dallas, Texas, to be transported and carried from the State of Texas, to the various States and Territories of the United States indicated on the said boxes and packages, and the said boxes and packages containing papers,
84½ certificates and instruments purporting to be and representing tickets, chances, shares and interests in and dependent upon the event of a lottery, to wit: the Pan-American Lottery Company of Paraquay, South America, which was then and there offering prizes dependent upon lot and chance and the said conspiracy aforesaid, against the laws of the United States was that the said lottery ticket so transported and carried should be disposed of contrary to the form of statutes in such case made and provided and against the peace and dignity of the United States, and the said W. F. Champion, C. B. Park and C. F. Champion alias W. W. Ogden, are now in the northern district of Texas.

Deponent further says that he has reason to believe and does believe that E. T. Stokes, El Paso, agent of the Wells, Fargo Express Company, Dallas, Richard Rule, Deming, New Mexico, and Richard Hudson, Deming, New Mexico, are material witnesses to the subject-matter in this complaint.

(Signed) L. B. FARISH.

Sworn to before me and subscribed in my presence this 28th day of February, A. D. 1899.

CHARLES H. LEDNUM,
U. S. Commissioner for the Northern District of Texas.

I approve this prosecution and the United States commissioner, C. H. Lednum, will issue warrants for arrest of parties.

WM. H. ATWELL, *U. S. Att'y.*

The foregoing has the following endorsement, to wit: United States district court. United States of America *vs.* W. F. Champion *et al.* Affidavit. Filed Feb'y 28, 1899. Chas. H. Lednum, U. S. commissioner.

I hereby certify that the foregoing is a true copy of the original thereof now in my office.

M'ch 1, 1899.

Attest: CHARLES H. LEDNUM,
[SEAL.] *United States Commissioner.*

Warrant for Apprehension. Issued M'ch 1, 1899.

The President of the United States of America to the marshal of the United States for the northern district of Texas and to his deputies or any or either of them:

Whereas, L. B. Farish has made complaint in writing under oath before me, the undersigned United States commissioner for
85 the northern district of Texas, charging that W. F. Champion, C. B. Park and one C. F. Champion alias W. W. Ogden, did, on or about the 20th day of February, A. D. 1899, at Dallas, Dallas county, Texas, in said district, in violation of section 5440 of the Revised Statutes of the United States, unlawfully and wilfully conspire together to commit an offense against the laws of the United States, to wit: did transport lottery tickets, etc., contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States.

Now, therefore, you are hereby commanded, in the name of the President of the United States of America to apprehend the said W. F. Champion, C. B. Park and one C. F. Champion alias W. W. Ogden, wherever found in your district and bring their bodies forthwith before me at my office at Dallas, Texas, or any other United States commissioner having jurisdiction of said matter in accordance with law to answer the said complaint that they may then and there be dealt with according to law for the said offense.

Given under my hand and seal, this first day of March, A. D. 1899.

CHAS. H. LEDNUM, [SEAL.]
United States Commissioner for the
[SEAL.] *Northern District of Texas.*

Endorsement: United States district court. The United States of America *vs.* W. F. Champion *et al.* Warrant to apprehend. Issued 1 day of March, 1899. Chas. H. Lednum, United States commissioner.

The President of the United States of America to the marshal of the northern district of Illinois:

Whereas, complaint in writing, on oath, has been made to the undersigned, Lewis F. Mason, a United States commissioner for the

district aforesaid, charging that W. F. Champion, C. B. Park and C. F. Champion alias W. W. Ogden, on or about the 20th day of February, A. D. one thousand eight hundred and ninety-nine, at Dallas, Dallas county, within the northern division of the northern district of Texas, did violate the postal laws of the United States, to wit, section 5440 of the Revised Statutes of the United States unlawfully and wilfully conspire together to commit an offense against the laws of the United States, to wit: did transport lottery tickets etc.

Now, therefore, you are hereby commanded, that you take the said W. F. Champion, C. B. Park, C. F. Champion alias W. W. Ogden (if they be found within your said district), and them safely keep, so that you have their bodies forthwith before the un-
85½ dersigned, commissioner as aforesaid, at his office in Chicago, in the said district (or in case of his absence, or inability to act, before any other United States commissioner or judicial officer having jurisdiction), in order that the said W. F. Champion, C. B. Park, C. F. Champion, alias W. W. Ogden may be dealt with according to law. And have you then there this writ, with a return of your doings hereon.

Witness the hand and seal of the said commissioner, at Chicago aforesaid, this third day of March, A. D. one thousand eight hundred and ninety-nine and of the Independence of the said United States the 123 year.

[SEAL.] LEWIS F. MASON,
U. S. Commissioner.

Return to Warrant. Filed M'ch 3, 1899.

Return.

Received this warrant on the third day of March, 1899, at Chicago, Ills., and executed the same by arresting the within-named C. F. Champion at Chicago, Ills., the 3rd day of March, 1899, and have his body now in court, as within I am commanded.

Dated Chicago, Ill., March 3, 1899.

JOHN C. AMES,
U. S. Marshal,
By G. H. VOSS, *Deputy.*

I return this warrant unexecuted as to W. F. Champion and C. B. Park not being able to find them within my district.

Marshal's Fees.

1899.

Mar. 3.	Travel (in going only) to serve warrant, from Chicago, Ill., to Chicago, Ill., one miles, at 6 cents per mile.....	06
Mar. 3.	Serving warrant (defendant taken into custody)....	2 00
Mar. 3.	Mileage—transportation of officer and prisoner 2 miles, 10 cents per mile each.....	20

Mar. 3. Discharging defendant (on bond on continuance) to M'ch 13, 14, 21	50
Mar. 3, 13, 14, 21. Attendance of deputy, 4 days, before commissioner	8 00
Total	10 76

(Endorsed:) Filed March 3, A. D. 1899. Lewis F. Mason, U. S. commissioner.

86 *Subpœna. Filed M'ch* 13, 1899.

The United of America to the marshal of the northern district of Texas, Greeting:

We command you, that you summon D. A. Robinson, E. J. Rieley, P. I. Arnold and P. H. Nesmith, if they be found in your district, to be and appear before the undersigned, Lewis F. Mason, a United — commissioner for the northern district of Illinois, at his office in the city of Chicago, in the northern division of said district, on the thirteenth day of March, A. D. 1899, at 10 o'clock a. m., to testify for the plaintiff in the cause wherein The United States of America are plaintiffs, and W. F. Champion, C. B. Park and C. F. Champion defendant-, and this you shall in nowise omit.

Witness the hand and seal of the said commissioner, at Chicago aforesaid, this 6th day of March, A. D. 1899, and of the Independence of the United States the 123 year.

LEWIS F. MASON,
U. S. Commissioner.

(Endorsed.)

I have served the within subpœna by reading the same to and in the presence and hearing of E. J. Riley, P. I. Arnold & P. H. Nesmith therein named, this 10th day of March, A. D. 1899.

Marshal's fees, $1.50.

GEO. H. GREEN,
U. S. Marshal.
D. A. ROBINSON, *Deputy.*

Filed March 13, A. D. 1899.

LEWIS F. MASON,
U. S. Commissioner.

OFFICE OF U. S. MARSHAL,
NORTHERN DISTRICT OF TEXAS.

I certify that I received the within writ on the 10th day of March, '99, at Dallas, Texas, and that I executed the same of the 10th day of M'ch, 1899, at Dallas, Texas, by then and there delivering the within-named D. A. Robinson a copy of this writ.

GEO. H. GREEN,
U. S. Marshal,
By —— ——, *Deputy.*

86½ *Bond. Filed M'ch* 3, 1899.

Before Lewis F. Mason, a commissioner of the United States of America for the northern district of Illinois.

NORTHERN DISTRICT OF ILLINOIS, *Northern Division,* } *sct:*

CHICAGO, *March* 2, 1899.

We, C. F. Champion, alias W. W. Ogden, as principal, and N. A. Mayer, of 4250 Drexel Boul., and Leopold Mayer, of 3170 Groveland Ave., as surety, jointly and severally acknowledge ourselves to be indebted unto the United States of America, in the sum of one thousand dollars, lawful money of the said United States, to be levied of our goods and chattels, lands and tenements, upon this condition:

That if the said C. F. Champion, alias W. W. Ogden, shall personally be and appear before Lewis F. Mason, a United States commissioner for the northern district of Illinois, at his office in the city of Chicago, in the northern division of the said district, on the 13th day of March, at 10 o'clock a. m., and from day to day thereafter, then and there to answer to such matters and things as shall be objected against him on behalf of the said United States, for wilful conspiracy with other defendants to commit an offense against the laws of the United States, to wit, did transport lottery tickets, etc., and shall abide the order of said commissioner in that behalf, and not depart from before him without his leave, then this recognizance to be void; otherwise to remain in full force and virtue.

C. F. CHAMPION. [SEAL.]
N. A. MAYER. [SEAL.]
LEOPOLD MAYER. [SEAL.]
—— ——. [SEAL.]

Signed, sealed and acknowledged this 3rd day of March, A. D. 1899, before me—

LEWIS F. MASON,
United States Commissioner.

(Endorsed:) Filed March 3, A. D. 1899. Lewis F. Mason, U. S. commissioner.

87 *Justification of Surety. Filed M'ch* 3, 1899.

NORTHERN DISTRICT OF ILLINOIS, *sct:*

On this third day of March, in the year 1899 at the city of Chicago, in the northern district of Illinois, before Lewis F. Mason, a commissioner of the United States of America for the said district, comes N. A. Mayer and offers himself as bail for C. F. Champion, who has been in due form of law brought before the said commissioner, and examined by and before him upon a charge of violating section 5440 R. S. of the U. S. and upon such examination has been by the said commissioner required to give bail in the sum

of one thousand dollars. And thereupon the said N. A. Mayer makes oath and says as follows, to wit:

My name is N. A. Mayer; I reside at 4250 Drexel Boul., Chicago; my occupation is banker; I own in fee-simple, and in my own name and right, the following real estate, situate in the said district, lot 28 Crosby & Sawyer sub. S. ½ sect. 5, T. 37, R. 14, and the deed conveying the same to me has been duly recorded.

The said real estate is free and clear of all liens and incumbrances whatsoever.

I also own personal property, in my own name and right, within the said district, to the value of ten thousand dollars; which personal property is free and clear of all liens and incumbrances whatsoever.

There is no judgment in force against me or my property in any court of record within the said district.

I am not indebted or liable in any manner to exceed five hundred dollars. I am worth at least ten thousand dollars over and above all my liabilities.

I have not acquired, taken or received the title to the said real estate, or any part thereof, or the title to the said personal property, or any part thereof, with any design or intention of making any fraudulent or deceptive showing of my sufficiency as bail in this behalf, or otherwise than in good faith, and with the intention of holding and using the said real estate and personal property as my own.

N. A. MAYER.

Subscribed and sworn before me by the above-named N. A. Mayer, this third day of March, 1899.

LEWIS F. MASON,
Commissioner.

(Indorsed:) Filed March 3, 1899. Lewis F. Mason, U. S. commissioner.

87½ *Complaint of Richard Hudson.*

THE UNITED STATES OF AMERICA,
Seventh Circuit, Northern District of Illinois, Northern Division, } *sct:*

On this fourteenth day of March, A. D. 1899, at the city of Chicago, in the northern division of the northern district of Illinois, before Lewis F. Mason, a commissioner of the said United States for the said district comes Richard Hudson, of the city of Deming, New Mexico, and upon his oath complains and says that C. F. Champion, late of the city of Dallas, in the northern district of Texas, on or about the 15th day of February, A. D. 1899, at Dallas aforesaid, in the district last aforesaid, unlawfully did cause to be carried and transferred by the Wells, Fargo Express Company from the State of Texas to the Territory of New Mexico, divers tickets in and advertisements of a lottery, to wit: a lottery in the same tickets

and advertisements called the Pan-American lottery and therein described as a lottery then being conducted by the Pan-American Lottery Company with drawings monthly at Asuncion, Paraguay, that is to say one package containing such tickets and advertisements directed to one Samuel Abraham, at Cliffton, Arizona Territory, another package containing such tickets and advertisements directed to S. H. Benson at Wilcox, Arizona Territory, another package containing such tickets and advertisements directed to Paul S. Migel, at San Bernardino, California, and another package containing such tickets and advertisements directed to James A. Ward, at Fresno, California, contrary to the forms of the statutes of the said United States, in such case made and provided, viz: section 1, act of March 2, 1895, 2 Suppl. R. S. U. S., 435.

Wherefore this complainant prays that the said C. F. Champion may be apprehended and further dealt with according to law.

RICHARD HUDSON.

Subscribed and sworn before me by the above-named Richard Hudson the day and year first above written.

LEWIS F. MASON,
Commissioner.

[SEAL.]

88 *Mittimus. Filed M'ch* 23, 1899.

The President of the United States of America to the marshal of the northern district of Illinois and to the keeper of the common jail of the county of Cook, in said district, Greeting:

Whereas, C. F. Champion has been apprehended and brought before the undersigned, Lewis F. Mason, a United States commissioner for the district aforesaid, for examination, by virtue of a warrant of the said commissioner issued upon complaint made before him in writing, on oath, charging the said C. F. Champion with transporting lottery tickets, etc.

And whereas, on such examination there appears probable cause to believe the said C. F. Champion guilty of the said offense, and the undersigned, commissioner as aforesaid, has ordered the said C. F. Champion to enter into recognizance, with sufficient surety, in the sum of one thousand dollars, for his appearance for trial on the said charge, at the May term of the district court of the United States for the northern district of Texas, or in default thereof to be committed to jail; and, whereas, the said C. F. Champion has not offered such recognizance: Now, therefore, you, the said marshal, are hereby commanded that you convey the said C. F. Champion to the said jail; and you, the said keeper, are hereby commanded that you receive the said C. F. Champion into the said jail, and him there safely keep until he be discharged therefrom by due course of law.

Witness the hand and seal of the said commissioner, at Chicago aforesaid, in the said division and district, this 21 day of March

A. D. 1899, and of the Independence of the said United States the 123 year.

LEWIS F. MASON,
U. S. Commissioner.

[SEAL.]

(Endorsed:) Northern district of Illinois, northern division. Before Lewis F. Mason, U. S. commissioner, *vs.* C. F. Champion. Mittimus. Bail, $1,000. L. F. Mason, U. S. commissioner.

Executed by retaining the within-named defendant in my esutody and taking him before the judge of the United States district court who signed a warrant for his removal to the northern district of Texas on the 21st day of March, 1899.

JOHN C. AMES,
U. S. Marshal,
By G. H. VOSS, *Deputy.*

Filed March 23, A. D. 1899.

LEWIS F. MASON,
U. S. Commissioner.

88½ *Certificate of U. S. Commissioner.*

UNITED STATES OF AMERICA, } *sct:*
Northern District of Illinois, }

I, Lewis F. Mason, United States commissioner for the said district, do hereby certify that the foregoing are true copies of my docket in the case of United States *vs.* C. F. Champion *et al.*, and all papers filed before me and writs issued by me. Which papers are transmitted to the United States circuit court for the northern district of Illinois, in the northern division thereof at Chicago, in obedience to a writ heretofore served upon me commanding me to transmit with all convenient speed all records and proceedings touching the arrest, apprehension, examination and commitment of C. F. Champion.

Dated at the city of Chicago, this 27th day of March, A. D. 1899.

LEWIS F. MASON,
U. S. Commissioner.

Fees, $5.00.

(Endorsed:) Filed Mar. 27, 1899. S. W. Burnham, clerk.

And on the sixth day of April, 1899, there was filed in the clerk's office of said court a certain certificate of evidence, which said certificate of evidence is in the words and figures following, to wit:

Certificate of Evidence. Filed Apr. 6, 1899.

Certificate of evidence.

In the Circuit Court of the United States of America for the Northern District of Illinois, Northern Division.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.* Gen. No., 25119.

Be it remembered, that on the hearing of the petition of the above-named C. F. Champion, to be released under said writ of *habeas corpus,* in addition to the petition for said writ, and
89 the return of the respondent thereto, there *was* introduced in evidence by the attorney for the United States, the attached exhibits, marked "A," "B," and "C" respectively, Exhibit "A" being the original exhibit and Exhibits "B" and "C" being true and correct copies of the original exhibits.

Witness my hand this sixth day of April, A. D. 1899.

JAS. G. JENKINS,
Circuit Judge.

EXHIBIT A.

Letter.

EXHIBIT "A."

The following letter found in box addressed to James A. Ward, Fresno, California:

Central department.

Pan-American Lottery Company.

Capital paid in, $1,000,000.00.

DALLAS, TEX., *Feb.* 18, 1899.

James A. Ward, Esq., Fresno, Calif.

DEAR SIR: I desire to call your attention to the enclosed circulars, descriptive of the Pan-American Lottery Company and of its methods of doing business.

I particularly desire to call your attention to the very liberal plan of the company, the large number of prizes, the ample evidences of financial responsibility, and of the prompt payment of all obligations.

We wish some responsible man in your city to handle our tickets, and, after investigation, have concluded to make you a proposition: If you will accept our agency your commission will be twenty-five per cent. You can make your settlement on the day before the drawing, at which time you will cancel all unsold tickets by cutting off the signature in the lower right corner, and you will then return

the canceled tickets to me by express, and at the same time remit for what tickets you have sold, less your commission.

Always seal the box in which you send your settlement.

Send everything by express—I pay all charges.

Knowing your responsibility, and believing you can rapidly build up a good trade in our tickets, I enclose a trial order for our next drawing, and hope you can accept our agency.

If you cannot accept our agency and will induce some responsible acquaintance of yours to accept, we will allow him the
89½ same terms offered you, and to repay you for getting an agent for us, we will, for five consecutive months, send you, free of charge, through the agent you have procured for us, a two-dollar ticket, or that amount in tickets of fractional parts, if preferred by you, for each of our monthly drawings—making a total of $10.00 worth of tickets. You can easily see that it is cheaper for us to do this than to send a traveling man to install an agent.

If you can accept either of the propositions, kindly notify me at once. If you cannot accept either, please return this package by express.

Very truly yours, W. W. OGDEN,
Room 201 Guild Building, Dallas, Texas.

EXHIBIT B.

Copy of Page of Cash Book.

"EXHIBIT B."

The attached is a fac-simile of a page of a cash book, the cover of which reads as follows:

Pan-American express.

Which cash book was offered in evidence.

			Cash paid.
		Brought for'd	$389.87
Jan.	23.	Express	1.05
"	"	Pacific	.52
"	"	Express	.75
"	24.	"	.25
"	"	"	.80
"	"	"	.78
"	"	"	.50
"	25.	"	.50
"	"	"	.25
"	"	"	1.69
"	26.	"	1.00
"	"	"	.75
"	"	"	.25
"	27.	"	1.00
"	"	"	.50
			$400.46

Addition O K. C. F. C.
Settle Jan. 27th, '99.
C. F. C.

90 EXHIBIT C.

Box and Contents.

EXHIBIT C.

One box containing lottery tickets, advertisements, etc., with the following writing and printing thereon:

Paid.
James A. Ward,
Fresno, D. A. R.
California.
E. T. Stokes,
Special ag't Treasury Dep't,
El Paso,
Texas.

If not promptly
delivered, return to
W. W. Ogden,
Dallas, Texas.
Wells-Fargo & Co.
Express.

From
Dallas, Tex.

(Endorsed:) Filed Apr. 6, 1899. S. W. Burnham, clerk.

On the same day to wit: the twenty-seventh day of March, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause before the Hon. James G. Jenkins, circuit judge, appears the following entry to wit:

Trial Continued, M'ch 27, 1899.

Order of March 27, 1899.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.* 25119.

Now again comes the petitioner in his own proper person and by his attorney and the respondent comes also by the United States attorney, and now comes on to be further heard the petition of said relator to be discharged under said writ of *habeas corpus*, and the arguments of counsel being heard in part, when the hour for adjournment arrived the further hearing is postponed until Thursday morning next at 9.30.

Afterwards to wit on the thirtieth day of March, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause, before the Hon. James G. Jenkins, circuit judge, appears the following entry to wit:

90½ *Judgment, M'ch* 30, 1899.

Order of March 30, 1899.

In the Matter of the Petition of C. F. CHAMPION for Writ of *Habeas Corpus.* 25119.

Now again comes the petitioner in his own proper person and by his attorney, and the marshal, the respondent herein, comes also by the United States attorney and the court having considered and being now fully advised finds that said petitioner ought to be discharged under said writ.

It is thereupon considered and adjudged by the court that said petitioner, C. F. Champion, be and he is hereby discharged under said writ of *habeas corpus* heretofore issued herein and that he go hence without day.

And it appearing to the court that there has been deposited with the clerk the sum of twenty-five hundred dollars ($2,500) in certified checks on the First National Bank of Chicago as security for the appearance of said C. F. Champion.

It is thereupon further ordered that the clerk return the same to said petitioner and that said recognizance bond be, and the same is hereby discharged.

And now comes the district attorney and prays an appeal which is allowed by the court upon the Government filing its petition for appeal and assignment of errors.

And on the thirty-first day of March, 1899, there was filed in the clerk's office of said court a certain opinion by Judge Jenkins, which said opinion is in the words and figures following, to wit:

91 *Opinion. Filed M'ch* 31, 1899.

Opinion.

UNITED STATES OF AMERICA, *Northern District of Illinois,* } ss:

In the Circuit Court of the United States.

THE UNITED STATES *ex Rel.* C. F. CHAMPION
v.
JOHN C. AMES, Marshal. } *Habeas Corpus.*

THURSDAY, *March* 30, 1889.

JENKINS, *Circuit Judge*, orally:

Upon the petition of C. F. Champion, a writ of *habeas corpus* was issued to the marshal of the northern district of Illinois to bring up the body of the petitioner then in his custody that the court might inquire into the cause of arrest and imprisonment. Upon return to the writ it appears that a certified copy of a com-

plaint made to a commissioner in the northern district of Texas was filed with a United States commissioner in this district who thereupon issued a warrant for the arrest of the petitioner; that complaint charged Champion with conspiracy with certain other parties named, to commit an offense against the United States, the overt act alleged being the transportation of certain lottery tickets in the Pan-American Lottery Company of Paraguay.

The petitioner, having been arrested upon that complaint, was brought before the commissioner, whereupon an amended complaint was filed with the commissioner made by Mr. Richard Hudson. That amended complaint abandoned the theory of conspiracy and charged that Champion on the 15th of February, 1899, at Dallas, in the northern district of Texas, did cause to be carried and transported by the Wells-Fargo Express Company, from the State of Texas to the Territory of New Mexico, divers tickets of a drawing in and advertisement of a lottery.

And examination was had upon that complaint, and the prisoner was committed to be transferred to Texas to meet the charge. Upon the hearing of this petition a number of questions have been raised touching the proceedings before the commissioner, including the constitutionality of the act of Congress by which this offense was created. In the disposition of the matters I find it necessary to refer to but two of the questions presented.

I shall not undertake to say to what extent a court upon the hearing on the writ of *habeas corpus* may go into the evi-
91½ dence before the commissioner, but, as I announced upon the hearing, if there is a sufficient charge here, if there is an offense set forth within the act of Congress, I am satisfied that there was shown probable cause to believe that such offense was committed by the petitioner. In considering the constitutionality of this act of Congress I have read the opinion in the case cited, France *v.* United States, 164 U. S., 676, in which the Supreme Court declined to pass upon its constitutionality. I have carefully considered the matter, and I think it fairly a debatable and doubtful question whether the act will be held to be constitutional. But, it being doubtful, it is not for this court, upon the hearing of a petition for a writ of *habeas corpus*, to hold the law unconstitutional. I conceive it to be the duty of a subordinate court, when an act of Congress is of doubtful validity, to hold the law valid for the purposes of the case, leaving the question of the constitutionality to be dealt with by the ultimate tribunal. Therefore, for the purposes of this hearing I shall hold the act of Congress to be constitutional.

This act, 28 Stat., 963, provides "that any person who shall cause to be brought within the United States from abroad for the purpose of disposing of the same, or deposited in, or carried by the mails of the United States, or carried from one State to another in the United States, any paper, certificate or instrument, purporting to be or represent a ticket, chance, share or interest in or dependent upon the event of a lotttery, so-called gift concert, or similar enterprise offering prizes dependent upon lot or chance, or shall cause any advertisement of such lottery, so-called gift concert, or similar

enterprise offering prizes dependent upon lot or chance, to be brought into the United States, or deposited in or carried by the mails of the United States, or transported from one State to another, shall be punishable in the first offense by imprisonment," &c.

It will be perceived that the offense declared here is the causing to be carried these lottery tickets by any means of transportation from one State to any other in the United States. It is claimed that lottery tickets—lotteries being generally prohibited by the laws of the various States—cannot constitute commerce as it is known and as the term is employed in the Constitution of the United States. I am not prepared to say that that contention is well founded, for a prohibited thing may yet be a matter of commerce, and it may be that in the regulation of commerce between the States, under the power conferred by the Constitution Congress has the right to exclude that which it deems prejudicial to public morals, especially when commerce in such matters is already prohibited by the law of the States.

92 The serious difficulty which I have encountered, so far as it is my duty to pass upon the questions presented here, arised upon the complaint itself. I take it that upon the hearing of this petition the court has the undoubted right to look into the complaint, at least so far as to ascertain if an offense is charged, for if none is charged the commissioner has no jurisdiction to issue his warrant or to proceed with the matter. The complaint charges that the defendant caused to be carried and transferred by the Wells-Fargo Express Company, from the State of Texas, to the Territory of New Mexico, certain lottery tickets. The act designates the offense to be the carrying or transferring of such matter from one State to another in the United States. The question to be decided, therefore, is in what sense the word "State" is employed in the act in question. Does it include a Territory of the United States?

At a very early day the question came before the Supreme Court of the United States, Hepburn *v.* Ellzey, 2 Cranch, 445, in regard to the jurisdiction of the Federal courts, the act conferring jurisdiction providing that in order to confer jurisdiction upon the Federal court there must be a controversy between a citizen of one State and a citizen of another State, or between an alien and a citizen. The question arose whether an inhabitant of a Territory of the United States, who was a citizen of the United States, could maintain a suit in the Federal courts, and upon that question we have the decision of the Supreme Court speaking by Mr. Chief Justice Marshall, than whom no greater intellect ever adorned the bench of the Supreme Court of the United States. This decision was made in what might be termed the formative period in the construction of the Constitution at a time when many of its framers were living; and it might be termed a contemporaneous construction of the Constitution. I have also read with great interest and care the several decisions of the district court of Oregon, to which the court here was referred upon the hearing, and the reasoning of those cases has greatly impressed me, for there can be no sort of reason why a citizen of the United States who happens to be an in-

habitant of a Territory should not be allowed access to the Federal courts of his country when an alien has that right; and it has seemed to me that the statute should have been so construed that the word "State" should apply to a Territory of the United States which is under its government and subject to its laws. But the same argument and the same reasoning which induced Judge Deady to hold that the word "State" includes "Territory," was presented to and passed upon by the Supreme Court at that early date in the construction of the Constitution and the Chief Justice remarked: "The act of Congress obviously used the word 'State' in reference to the term as used in the Constitution," and therefore it becomes necessary to ascertain in what sense the word is employed in the Constitution; and "the result of that examination is a conviction that the members of the American Confederacy only are the States contemplated in the Constitution. The House of Representatives is to be composed of members chosen by the people of the several States; and each State shall have at least one Representative. The Senate of the United States shall be composed of two Senators from each State. Each State shall appoint, for the election of an executive, a number of electors equal to its whole number of Senators and Representatives. Those clauses show," says the Chief Justice, "that the word State is used in the Constitution as designating a *number* of the Union, and excludes from the term the signification attached to it by writers on the laws of nations."

92½

It was claimed before that court that other passages from the Constitution showed that the term State was used in a more enlarged sense, but the court observed, on examining the passages quoted that they did not prove what was attempted to be shown by them.

"It is extraordinary," say- the Chief Justice, "that the courts of the United States, which are open to aliens, and to the citizens of every State in the Union, should be closed upon them" when they are citizens and inhabitants of a Territory. "But this is a subject for legislative, not for judicial consideration."

I feel bound by the decision of the Supreme Court to which I have referred, and which has been upheld and adhered to continuously from that time to the present. Hooe *v.* Jamieson, 166 U. S., 395. It is the law of the land today with respect to the jurisdiction of the Federal courts, that the inhabitants of a Territory cannot seek justice within the portals of a Federal court.

Here is an act creating an offense unknown to the common law. It is a cardinal cannon in the construction of criminal statutes that they should be construed strictly; that the courts have no right to extend their meaning beyond the scope of the terms employed, and we must seek for the intent of the law-making power in the language which has been used in the act itself. When Congress, knowing as we must presume it did, that the word "State" as used in the Constitution means simply State and not Territory, knowing also that the act, if it could be upheld at all could only be sustained under the power given to Congress to regulate commerce between the States, employed that term, we must assume that it was in the

constitutional sense as interpreted and declared by the Supreme Court of the United States.

93 It may be said—it may occur to any one to say—that the transportation of lottery tickets into a territory which was under the absolute control of Congress, was as much within the mischief intended to be prevented as the transportation of such tickets from one State to another; but it is no more true than was the powerful argument presented to the Supreme Court that it was not intended to prohibit to citizens of the United States—because they happened to be domiciled in a Territory—the protection of the courts of the United States; and it was as easy a matter in the one case as in the other, as suggested by the Chief Justice, to apply the remedy. If Congress desired to prohibit the transportation of lottery tickets into a Territory of the United States it should have said so.

We may not enlarge the scope of a criminal statute to declare an offense which Congress has not created, because we see that the mischief is the like mischief that Congress has sought to prevent in respect to other geographical divisions of the Union; I have come reluctantly to the conclusion that it would be judicial legislation for the court to hold, in view of the decisions of the Supreme Court, that the word "State" as used in this act includes the Territories of the United States.

It follows, therefore, that this complainant presented to the commissioner charges no offence against this petitioner, and that he must be discharged from imprisonment.

(Endorsed:) Filed March 31, 1899. S. W. Burnham, clerk.

And on the thirty-first day of March, 1899, came the United States by S. H. Bethea, United States attorney, and filed in the clerk's office of said court a certain petition for appeal, which said petition for appeal is in words and figures following, to wit:

93½ *Petition on Appeal. Filed M'ch* 31, 1899.

In the Circuit Court of the United States of America for the Northern District of Illinois, Northern Division, of the March Adjourned Term, 1899.

In the Matter of the Application of C. F. CHAMPION for a Writ of *Habeas Corpus*. Gen. No., —.

Petition on appeal.

The United States, defendant in the above-entitled cause, deeming itself aggrieved by the judgment and order of the court entered in the above-entitled cause on the thirtieth day of March, 1899, hereby appeals from said order and judgment to the United States circuit court of appeals for the seventh circuit, for the reasons specified in the assignment of errors, filed herewith, and it prays that this appeal may be allowed, and that a transcript of the record and

papers on which said order was made, duly authenticated, may be sent to the United States circuit court of appeals for the seventh circuit.

And it further prays that an order may be entered by this court, requiring the said C. F. Champion to enter into a recognizance, with sureties to be approved by the court, in such amount as the court shall think proper, for his appearance answer to the judgment of the said circuit court of appeals for the seventh district, as required by rule thirty-four of the Supreme Court of the United States, promulgated March 29, 1886, as amended May 10, 1886.

Dated, Chicago, Illinois, March 30, 1899.

S. H. BETHEA,
United States Attorney.

(Endorsed:) Filed Mar. 31, 1899. S. W. Burnham, clerk.

And on the same day, to wit, the thirty-first day of March, 1899, came the United States by S. H. Bethea and filed in the clerk's office of said court its assignment of errors, which said assignment of errors are in words and figures following, to wit:

94 *Assignment of Errors. Filed M'ch* 31, 1899.

In the Circuit Court of the United States of America for the Northern District of Illinois, Northern Division, of the March Adjourned Term, 1899.

In the Matter of the Application of C. F. CHAMPION for a Writ of *Habeas Corpus.* Gen. No., —.

Assignment of errors.

Now comes S. H. Bethea, attorney for the United States, for the northern district of Illinois, who, for the United States, is about to pray an appeal from the decision and judgment of this court, rendered March 30, 1899, in the above-entitled cause, and assigns the following errors of law in the said decision and judgment:

I.

That by the record aforesaid it appears that the judgment aforesaid given was given for the said petitioner, C. F. Champion, against the said United States, whereas, by the law of the land, the said judgment ought to have been given for the said United States against the said petitioner, C. F. Champion.

II.

The court erred in entering an order and judgment discharging the said C. F. Champion.

III.

The court erred in not entering an order discharging the said writ of *habeas corpus.*

IV.

The court erred in deciding that the complaint filed before the commissioner in said cause did not state a crime of which the United States district court for the northern district of Texas had jurisdiction, when, in fact, it did allege a crime of which said court had jurisdiction.

94 V.

The court erred in holding that the said commissioner, Louis F. Mason, did not have jurisdiction of the subject-matter in the proceedings before him, the said commissioner, set forth in the record herein.

And the said United States prays that the judgment aforesaid may be reversed, annulled and altogether held for nothing.

S. H. BETHEA,
United States Attorney.

(Endorsed:) Filed Mar. 31, 1899. S. W. Burnham, clerk.

And on the thirty-first day of March, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause before the Hon. James G. Jenkins, circuit judge, appears the following entry, to wit:

Order of M'ch 31, 1899, *Allowing Appeal.*

In the Matter of the Application of C. F. CHAMPION for a Writ of *Habeas Corpus.*

And now on this 31st day of March, 1899, comes, in the above-entitled cause, the United States, by its attorney S. H. Bethea, and moves the court for an order granting an appeal herein to the United States circuit court of appeals for the seventh circuit, and asking that, upon the granting of said appeal, the said C. F. Champion, the petitioner, for the writ of *habeas corpus* in said proceeding, be required to enter into a recognizance, with sufficient sureties, for his appearance before the said United States circuit court of appeals for the seventh circuit; and the court having considered this motion, hereby grants said appeal, and doth hereby order that the said petitioner, C. F. Champion, shall, during said appeal, enter into a recognizance, with proper sureties, in the penal sum of five hundred dollars, according to law, for his appearance before the said United States circuit court of appeals for the seventh circuit, at the session thereof appointed to be held on the first Monday of May, 1899, or any adjournment thereof.

95 Afterwards to wit on the twelfth day of April, 1899, in the December term of said court, 1898, in the record of proceedings thereof, in said entitled cause before the Hon. William A. Woods, circuit judge, appears the following entry to wit:

Order Allowing Deposit in Lieu of Bond.

In the Matter of the Petition of C. F. CHAMPION for Writ of *Habeas Corpus.*

Now come the parties by their attorneys and it appearing to the court that the said C. F. Champion has deposited with the clerk of this court, a certified check on the First National Bank of Chicago, for the sum of five hundred dollars ($500) as security for his appearance to abide the judgment of the United States circuit court of appeals for the 7th circuit in the matter of the appeal taken by the United States in said above cause, said sum of $500 being deposited in lieu of surety to the recognizance of said C. F. Champion. And it appearing to the court that said C. F. Champion has been unable to furnish such recognizance with security; it is now ordered by the court that the clerk be, and he is hereby authorized to draw the funds on said check upon the First National Bank of Chicago, and deposit the proceeds of the same in the registry of this court, the same to be held in the place and stead of a recognizance by said C. F. Champion with approved security. That said sum of five hundred dollars ($500) shall be subject to any lien for the taxable costs in the said United States circuit court of appeals or in this court and that upon final settlement of the same, any balance remaining shall be returned to the said relator, C. F. Champion.

Præcipe for Transcript.

United States Circuit Court, Northern District of Illinois, Northern Division.

In the Matter of the Petition of C. F. CHAMPION for Writ of *Habeas Corpus.* 25119.

The clerk of said court will please make a transcript of the following proceedings had in the above-entitled cause, for use in the United States circuit court of appeals for the seventh circuit:

Petition for writ of *habeas corpus* & writ of certiorari.
Order of March 22, 1899.
Writ of *habeas corpus.*
96 Recognizance.
Writ of certiorari.
Order of March 24, 1899.
Order of April 11, '99, *nunc pro tunc* as of March 24, '99.
Amended petition.
Transcript of proceedings and paper before U. S. commissioner.
Certificate of evidence.
Order of March 27, 1899.
Order of March 30, 1899.
Opinion.
Petition for appeal.

Assignment of errors.
Order of March 31, 1899.
Order of March 12, 1899.

____ ____,
United States Attorney.

Clerk's Certificate.

NORTHERN DISTRICT OF ILLINOIS, } ss:
Northern Division, }

I, S. W. Burnham, clerk of the circuit court of the United States for said northern district of Illinois do hereby certify the above and foregoing to be a true and complete transcript of the record of all the proceedings had in said court in the cause entitled In the matter of the petition of C. F. Champion for a writ of *habeas corpus*, as the same appear from the original files and records of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office in the city of Chicago, in said district, this 12th day of April, 1899.

[SEAL.] S. W. BURNHAM, *Clerk.*

97 On the same day, to wit, the twenty-second day of June, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause, before the Hon. Christian C. Kohlsaat, district judge, appears the following entry, to wit:

Order of June 22, 1899.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

Let the writ of *habeas corpus* issue as prayed for, returnable before the Honorable James G. Jenkins, circuit court judge, on Tuesday, the 27th day of June, 1899, at ten o'clock a. m., and the petitioner, C. F. Champion, may be enlarged upon his own recognizance in the sum of one thousand dollars upon depositing with the clerk of this court a certified check on the First national bank for the sum of one thousand dollars or the amount of one thousand dollars in cash for his faithful observance of the condition of his recognizance and for his appearance on said 27th day of June, 1899, and from day to day, as aforesaid, and let the writ of certiorari issue as prayed for, commanding Lewis P. Mason, United States circuit court commissioner, to forthwith produce before this court all his records and proceedings in the case of The United States of America *vs.* Charles F. Champion *et al.*, in which case complaint was filed before said Commissioner Lewis P. Mason on the 9th day of May, 1899.

98 On the same day, to wit, the twenty-second day of June, 1899, a writ of *habeas corpus* issued out of the clerk's office of said court, directed to the marshal of said district to execute;

which said writ of *habeas corpus*, together with the marshal's return thereon endorsed, is in the words and figures following, to wit:

Writ of Habeas Corpus.

Circuit Court of the United States of America, Northern District of Illinois, Northern Division, *ss:*

The United States of America to John C. Ames, U. S. marshal northern district of Illinois, Greeting:

We command you that you do, on the twenty-seventh day of June, A. D. 1899, at 10 o'clock a. m., without excuse or delay, bring or cause to be brought before the circuit court of the United States of America for the northern district of Illinois now sitting in the court-room of said circuit court, in the city of Chicago, in said district, the body of C. F. Champion by whatever name or addition he is known or called and who is unlawfully detained in your custody, as it is said, together with the day and cause of his caption and detention, then and there to perform and abide such order and direction as our said circuit court shall make in that behalf. Hereof make due return under the penalty of what the law directs.

To the marshal of the northern district of Illinois to execute.

Witness the Hon. Melville W. Fuller, Chief Justice of the United States of America, at Chicago aforesaid, this [SEAL.] twenty-second day of June, in the year of our Lord one thousand eight hundred and ninety-nine, and of our Inde-99 pendence the 123rd year.

S. W. BURNHAM, *Clerk.*

Marshal's Return.

Before the Honorable James G. Jenkins, Judge.

In the Circuit Court of the United States of America for the Northern District of Illinois, Northern Division.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.*

I, John C. Ames, hereby certify and make return to the writ of *habeas corpus* issued in this case that I am the marshal of the United States for the northern district of Illinois, and that I, on the twenty-second day of June, 1899, held the above-named petitioner in my custody as such marshal by virtue of a commitment issued by Lewis F. Mason, United States commissioner, on June 22nd, A. D. 1899, which is set forth in full in the petition in this case.

I do further certify and return that on the said twenty-second day of June, 1899, the said petitioner, C. F. Champion, applied to the Honorable Christian C. Kohlsaat, acting circuit judge of the United States, for a writ of *habeas corpus*, and on petitioner's motion the said judge of said court entered an order in said matter that the said petitioner be enlarged upon bail of *habeas corpus* until the

further order of the court in said *habeas corpus* matter upon his entering in recognizance in the penal sum of one thousand dollars ($1,000.00) and depositing with the clerk of said court as security for his appearance a certified check on the First national
100 bank for that amount or the amount in cash, with which order the said petitioner complied and was admitted to bail pending the proceedings, which order is more fully shown by a copy thereof and the certificate of the clerk hereto attached and marked Exhibit "A."

I do further certify and return that on the said petitioner complying with the terms of said order I admitted the said petitioner to bail in conformity with said order.

I do further return that by virtue of the terms of the bail bond it will become the duty of the said petitioner to appear before the court on the hearing of said *habeas corpus* matter.

I do further certify and return that, as the petitioner is now enlarged upon bail, as aforesaid, it is impossible for me to produce the body of the said petitioner, C. F. Champion, now before your honor, but that it is the duty of the said C. F. Champion there to appear and be as required by his bail bond.

JOHN C. AMES,
United States Marshal.

(Endorsed:) 858. Gen. No., 25236. "By the *habeas corpus* act." Circuit court, northern district of Illinois, northern division. In the matter of the petition of C. F. Champion for a writ of *habeas corpus*. Returnable June 27, 1899, at 10 a. m. S. W. Burnham, clerk. Joseph B. David, att'y for petitioner. Filed Jun- 27, 1899. S. W. Burnham, clerk.

101 On the same day, to wit, the twenty-second day of June, 1899, a writ of certiorari issued out of the clerk's office of said court, directed to the marshal of the northern district of Illinois to execute; which said writ of certiorari, together with the marshal's return thereon endorsed, is in the words and figures following, to wit:

Writ of Certiorari.

UNITED STATES OF AMERICA,
Northern District of Illinois, Northern Division, } ss:

The United States of America to Lewis F. Mason, Esq., United States commissioner, Greeting:

Whereas it has been made to appear from the petition of Charles F. Champion for a writ of *habeas corpus*, now pending in this court, that you, the said Lewis F. Mason, have in your custody and control certain records and transcripts of proce-dings in the case of said C. F. Champion, which are required on the hearing of the petition of said Champion to be discharged under a writ of *habeas corpus* heretofore issued in this court:

We therefore command you, Lewis F. Mason, as United States commissioner, that you cause to be transmitted to our circuit court of the United States of America for the northern district of Illinois, at Chicago, in the northern division of said district, with all convenient speed, all records and proceedings before you, Lewis F. Mason, as United States commissioner, touching the arrest, apprehension, examination, and commitment of the said C. F.
102 Champion, and this writ is hereby made returnable at 10 o'clock a. m. Tuesday, June 27, 1899.

To the marshal of the northern district of Illinois to execute.

Witness the Hon. Melville W. Fuller, Chief Justice of
[SEAL.] the United States of America, at Chicago aforesaid, this 22nd day of June, in the year of our Lord one thousand eight hundred and ninety-nine, and of our Independence the one hundred and twenty-third year.

S. W. BURNHAM, *Clerk.*

Marshal's Return.

I have served this writ within my district upon the within-named Lewis F. Mason, U. S. commissioner, by reading the same to and within his presence and hearing this 26th day of June, A. D. 1899.

JOHN C. AMES,
U. S. Marshal,
By C. W. WATSON, *Deputy.*

(Endorsed:) Filed June 27, 1899. S. W. Burnham, clerk.

103 On the same day, to wit, the twenty-second day of June, 1899, came C. F. Champion and filed in the clerk's office of said court his recognizance in said entitled cause; which said recognizance is in the words and figures following, to wit:

Recognizance.

Circuit Court of the United States, Northern District of Illinois, Northern Division.

I, C. F. Champion, acknowledge myself to be indebted unto the United States of America in the sum of one thousand dollars, lawful money of the said United States, to be levied of my goods and chattels, lands and tenements, upon this condition:

That if I, the said C. F. Champion, shall personally be and appear before the circuit court of the said United States for the northern district of Illinois on Tuesday, June 27, 1899, at 10 a. m., Hon. James G. Jenkins presiding, from day to day during the present term thereof, now being holden at the court-house of the said United States, in the city of Chicago, in the northern division of the said district, and from day to day during subsequent terms of the said court, there to abide the order of said court on the writ

of *habeas corpus* issued in cause No. 25236, entitled "In the matter of the petition of C. F. Champion for a writ of *habeas corpus*," now pending and undetermined in said court, and will abide the order and judgment of the said court in this behalf and not depart the said court without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

CHARLES F. CHAMPION. [SEAL.]

Subscribed and acknowledged this 22nd day of June, 1899, before me—

S. W. BURNHAM,
Clerk U. S. District *Court, North. Dist. Illinois.*

Approved this 22nd day of June, 1899.

S. W. BURNHAM, *Clerk.*

104 (Endorsed:) No. 25236. Circuit court of the United States, northern district of Illinois. *In re* petition of C. F. Champion for writ of *habeas corpus*. Recognizance of C. F. Champion. Filed June 22, 1899. S. W. Burnham, clerk.

105 And on the twenty-seventh day of June, 1899, there was filed in the clerk's office of said court a certain transcript of proceedings had before Lewis F. Mason, a United States commissioner; which said transcript of proceedings *are* in words and figures following, to wit:

UNITED STATES OF AMERICA, }
Northern District of Illinois. }

UNITED STATES OF AMERICA
vs.
C. F. CHAMPION, alias W. W. OGDEN, W. F. CHAMPION, and C. B. Park. } 25236.

Transcripts before Lewis F. Mason, U. S. Commissioner.

106 UNITED STATES OF AMERICA, }
Northern District of Illinois, } *ss:*

UNITED STATES OF AMERICA
vs.
C. F. CHAMPION, alias W. W. OGDEN, W. F. CHAMPION, Charles B. Park, Defendants. } No. 53.

Before me, Lewis F. Mason, a United States commissioner for the said district, *complainant* an affidavit was made on this 9th day of May, 1899, by G. H. Voss, deputy United States marshal, charging in substance that on or about the 1st day of February, 1899, at Dallas, Texas, in the said district, the defendants, C. F. Champion, alias W. W. Ogden, W. F. Champion, Charles B. Park, in violation of section 5440 of the Revised Statutes of the United States, did

unlawfully conspire to commit a crime against the United States, to wit, carried lottery tickets from one State to another, in violation of law.

On May 10th, 1899, issued warrant to J. C. Ames, United States marshal, returnable before me.

On May 10th, 1899, warrant returned endorsed in substance as follows; "Served within warrant by arresting C. F. Champion, alias W. W. Ogden, W. F. Champion and C. B. Park not found, and I have C. F. Champion now before U. S. Commission- Mason.—J. C. Ames, U. S. marshal, by C. W. Watson, deputy. Fees, $23.06."

On May 10th, 1899, issued subpœna on behalf of U. S. — G. H. Voss, deputy U. S. marshal.

On May 10th, 1899, said subpœna was returned endorsed in substance as follows: "Served within subpœna by reading to G. H. Voss this 10th day of May, 1899.—J. C. Ames, U. S. marshal, by C. W. Watson, deputy. Fees, 56c."

On May 10th, 1899, defendant C. F. Champion was brought
107 before me, the said commissioner, at my office, in the city of Chicago, in said district, by C. W. Watson, deputy U. S. marshal, and complaint was then and there fully read and explained to the said defendant, who thereupon for plea said he is not guilty as charged in the said complaint, and thereupon, on motion to that effect made by the defendant, this hearing was continued until the 17th day of May, 1899, and the said defendant was required to give bond pending examination in the sum of one thousand dollars, which he did.

On May 17th, 1899, pursuant to continuance of May 10th, 1899, defendant was brought before me, the said commissioner, at my said office, in the said district, by C. W. Watson, deputy U. S. marshal, and thereupon, upon motion to that effect made by the defendant, this hearing was continued until the 26th day of May, 1899, and the defendant was required to give bond in the sum of one thousand dollars, which he did.

On May 26th, 1899, pursuant to the continuance of May 17th, 1899, the defendant was brought before me, the said commissioner, at my office, in the said district, by C. W. Watson, deputy U. S. marshal, and thereupon, on motion to that effect made by the plaintiff, this hearing was continued until the 17th day of June, 1899.

On June 17th, 1899, pursuant to continuance of May 26th, 1899, the defendant was brought before me, the said commissioner, at my office, by C. W. Watson, deputy U. S. marshal. The following witnesses *were* sworn on the part of the plaintiff: G. H. Voss.

And from the evidence of the said witness it appearing to me, the commissioner, that the laws of the United States have been violated as charged in the complaint, and that there is probable cause shown to believe the defendant guilty of alleged offense, it is ordered that he give bond in the sum of one thousand dollars for his
108–192 appearance before the United States district court of the northern district of Texas, to be held on the first Monday in January, 1900, at Dallas, Texas, to answer said charge, and that in the default of same he stand committed, and the defendant, fail-

ing to give said bond, was committed to the jail of Cook county, Illinois, there to remain until discharged by due course of law.

June 22nd, 1899, mittimus returned endorsed as follows:

I have executed this writ by detaining the within-named Chas. F. Champion in my custody until 11 o'clock a. m., June 22nd, when he gave bond before the clerk of the U. S. circuit court, at Chicago, when he was released.—John C. Ames, U. S. marshal, by C. W. Watson, deputy.

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

I, Lewis F. Mason, United States commissioner for the northern district of Illinois, do hereby certify that the foregoing three pages are true copies of my docket in the case of The United States of American *vs.* C. F. Champion *et al.*, and all papers are true copies of all papers filed before me and writs issued by me pertaining to the said cause; which papers are transmitted to the United States circuit court for the northern district of Illinois, in the northern district thereof, at Chicago, in obedience to a writ heretofore served upon me, commanding me to transmit with all convenient speed all records and proceedings touching the arrest, apprehension, examination, and commitment of C. F. Champion, alias W. W. Ogden.

Dated at the city of Chicago this 26th day of June, A. D. 1899.

LEWIS F. MASON,
United States Commissioner.

193 The United States of America to the marshal of the northern district of Illinois, Greeting:

We command you that you summon G. H. Voss, if he be found in your district, to be and appear before the undersigned, Lewis F. Mason, a United States commissioner for the northern district of Illinois, at his office, in the city of Chicago, in the northern division of said district, on the 17th day of May, A. D. 1899, at 10 o'clock a. m., to testify for the United States in the cause wherein The United States of America are plaintiffs and C. F. Champion *et al.* defendant-; and this you shall in nowise omit.

Witness the hand and seal of the said commissioner, at
[SEAL.] Chicago aforesaid, this 10 day of May, A. D. 1899, and of the Independence of the United States the 123 year.

LEWIS F. MASON,
U. S. Commissioner.

194–196 Before Lewis F. Mason, a Commissioner of the United States of America for the Northern District of Illinois.

CHICAGO, *May* 10, 1899.

NORTHERN DISTRICT OF ILLINOIS, } sct:
Northern Division, }

I, C. F. Champion, acknowledge myself to be indebted unto the United States of America in the sum of one thousand dollars, lawful

money of the said United States, to be levied of my goods and chattels, lands and tenements, upon this condition:

That if the said C. F. Champion shall personally be and appear before Lewis F. Mason, a United States commissioner for the northern district of Illinois, at his office, in the city of Chicago, in the northern division of the said district, on the 17 day of May, at 10 o'clock a. m., and from day to day thereafter, then and there to answer such matters and things as shall be objected against him on behalf of the said United States for violating section 5440, as amended, & act of March 3, 1895, and shall abide the order of said commissioner in that behalf and not depart from before him without his leave, then this recognizance to be void; otherwise to remain in full force and virtue.

(Signed) C. F. CHAMPION. [SEAL.]

Signed, sealed, and acknowledged this 10 day of May, A. D. 1899, before me—

LEWIS F. MASON,
United States Commissioner.

True copy.
LEWIS F. MASON,
U. S. Commissioner.

(Endorsed:) No. 53. Northern district of Illinois, northern division. Before Lewis F. Mason, U. S. commissioner. The United States of America *vs.* Champion *et al.* Recognizance on continuance. Filed May 10, A. D. 1899. Lewis F. Mason, U. S. commissioner.

197 On the same day, to wit, the twenty-seventh day of June, 1899, in the December term of said court, 1898, in the record of proceedings thereof in said entitled cause, before the Hon. James G. Jenkins, circuit judge, appears the following entry, to wit:

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus.* 25236.

And now comes the petitioner in his own proper person and by his attorneys, and the United States marshal, John C. Ames, the respondent herein, comes also by the United States attorney, and the court, having considered and being now fully advised, finds that the petitioner ought not to be discharged under said writ.

It is therefore considered and adjudged by the court that said writ of *habeas corpus* be discharged and said petitioner, Charles F. Champion, be, and he is hereby, remanded to the custody of John C. Ames, United States marshal for the northern district of Illinois.

198 On the same day, to wit, the twenty-seventh day of June, 1899, came Charles F. Champion, by his attorneys, and filed in the clerk's office of said court his petition for appeal; which said petition for appeal is in words and figures following, to wit:

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the Circuit Court of the United States for the Northern District of Illinois, Northern Division, Adjourned May Term, A. D. 1899.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus.* No. 25236.

Petition on Appeal.

Charles F. Champion, petitioner in the above-entitled cause, deeming himself aggrieved by the judgment and order of the court entered in the above-entitled cause on the 27th day of June, 1899, hereby appeals from said order and judgment to the Supreme Court of the United States for the reasons specified in the assignment of errors filed herewith, and he prays that this appeal may be allowed, and that a transcript of the record and papers on which said order and judgment were made, duly authenticated, may be sent to the Supreme Court of the United States; and he further prays that an order may be entered by this court allowing him to be enlarged on a recognizance in such sum and on such conditions as may be approved by the court for his appearance to abide the judgment of the Supreme Court of the United States.

Dated this 27th day of June, 1899.

CHARLES F. CHAMPION, *Petitioner.*

JOSEPH B. DAVID AND
MORITZ ROSENTHAL,
Attorneys for said Petitioner.

(Endorsed:) Filed June 27, 1899. S. W. Burnham, clerk.

199 On the same day, to wit, the twenty-seventh day of June, 1899, came Charles F. Champion, by his attorneys, and filed in the clerk's office of said court his assignment of errors; which said assignment of errord are in words and figures following:

UNITED STATES OF AMERICA, } ss:
Northern District of Illinois, }

In the Circuit Court of the United States for the Northern District of Illinois, Northern Division, Adjourned May Term, A. D. 1899.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus.* No. 25236.

Assignment of Errors.

Now comes the petitioner, Charles F. Champion, by Joseph B. David and Moritz Rosenthal, his attorneys, and said petitioner having prayed for and obtained an appeal from the decision and judg-

ment of this court, rendered on the 27th day of June, 1899, in the above-entitled cause, assigns the following errors of law in said decision, order, and judgment:

1. By the record aforesaid it appears that the judgment aforesaid was given for the respondent and against the petitioner, whereas, by the law of the land, said judgment ought to have been given for said petitioner, Charles F. Champion, and against the said respondent.

2. The court erred in entering an order and judgment discharging the writ of *habeas corpus* and remanding petitioner to the custody of the respondent.

200 3. The court erred in not entering an order discharging petitioner upon said writ of *habeas corpus*.

4. The court erred in not holding and finding that that portion of section 1 of the act of March 2, 1895, 2 Supp. R. S. U. S., 435, which makes it an offense to carry from one State to another in the United States any paper, certificate, or instrument purporting to be or represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lottery chance, or shall cause any advertisement of such lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lottery chance to be transferred from one State to another in the United States, is unconstitutional and void and in violation of the first amendment of the Constitution of the United States.

5. The court erred in not finding that the Congress of the United States was not empowered under and by virtue of paragraph 3 of section 8 of article 1 of the Constitution of the United States to pass and enact that portion of section 1 of the act of March 2, 1895, 2 Supp. R. S. U. S., 435, which made it an offense to carry from one State to another in the United States any paper, certificate, or instrument purporting to be or represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lottery chance, or shall cause any advertisement of such lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lottery chance to be transferred from one State to another in the United States.

6. The court erred in not finding and deciding that it was beyond the power of Congress to pass and enact that part of section

201 1 of the act of March 2, 1895, 2 Supp. R. S. U. S., 435, which made it an offense to carry from one State to another in the United States any paper, certificate, or instrument purporting to be or represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, so-called gift concert, or similar enterprise offering prizes dependent upon lottery chance, or shall cause any advertisement of such lottery, so-called gift concert, or similar enterprise offering prizes dependent upon *literary* chance to be transferred from one State to another in the United States, and that that portion of said statute was unconstitutional, null, and void.

7. The court erred in holding that the commissioner, Lewis F.

Mason, had jurisdiction of the subject-matter in the proceedings before him, said commissioner, as set forth in the record herein.

8. The court erred in finding that said commissioner, Lewis F. Mason, was authorized and warranted in finding that the offense of conspiracy, as charged in the complaint filed before said commissioner, was committed, and that said commissioner was warranted in finding that there was probable cause for believing that said petitioner, Charles F. Champion, was guilty of said offense of conspiracy.

9. The court erred in finding that there was any evidence before the court that the offence of conspiracy had been committed as charged in the complaint filed before said commissioner, Lewis F. Mason, or that there was any evidence or ground for holding or finding that said petitioner, Charles F. Champion, was probably guilty of said offense of conspiracy, as charged in said complaint and the indictment offered in evidence before said commissioner and made a part of said complaint.

10. The court erred in finding that said petitioner should not be discharged upon said writ of *habeas corpus* for the reasons set forth in the petition of said petitioner, alleging that he was un-
202 lawfully restrained of his liberty by the respondent, John C. Ames, United States marshal.

11. The court erred in not discharging said petitioner upon said writ of *habeas corpus*, upon the ground that there was no evidence or testimony offered before the commissioner or before the court showing that the crime of conspiracy had been committed, as charged in the complaint filed before said commissioner, or, if committed, that there was no evidence showing or tending to show that said petitioner was probably guilty of said offense.

12. The court erred in not finding that there was no evidence upon which the petitioner could be convicted upon said indictment in the district court of the United States for the northern district of Texas in case the said petitioner was placed upon trial upon said indictment.

And the said petitioner prays that the judgment and order aforesaid of said circuit court of the United States for the northern district of Illinois, northern division, may be reversed, set aside, annulled, and altogether held for nothing.

CHARLES F. CHAMPION,
By JOSEPH B. DAVID &
MORITZ ROSENTHAL,
His Attorneys.

JOSEPH B. DAVID AND
MORITZ ROSENTHAL,
Att'ys for Charles F. Champion.

(Endorsed:) Filed June 27, 1899. S. W. Burnham, clerk.

203 On the same day, to wit, the twenty-seventh day of June, 1899, in the December term of said court, 1898, in the record

of proceedings thereof in said entitled cause, before the Hon. James G. Jenkins, circuit judge, appears the following entry, to wit:

Order.

Circuit Court of the United States, Northern District of Illinois, Northern Division.

TUESDAY, *June* 27, 1899.

Present: Hon. James G. Jenkins, circuit judge.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus*. No. 25236.

And the said petitioner, Charles F. Champion, in his own proper person and by his attorneys, having this day filed his petition praying an appeal to the Supreme Court of the United States from the order and judgment of this court discharging the writ of *habeas corpus* and remanding the said Charles F. Champion to the custody of John C. Ames, United States marshal for the northern district of Illinois, and said Charles F. Champion having this day filed with his said petition for appeal to the Supreme Court of the United States his assignment of errors, in accordance with the rules of the Supreme Court of the United States:

It is therefore ordered by the court that the said appeal of said Charles F. Champion to the Supreme Court of the United States be, and the same is hereby, allowed, upon condition that said petitioner, Charles F. Champion, enter into a recognizance in the sum of one thousand dollars, with sufficient surety, to be approved by the clerk of this court, conditioned upon his personally appearing before the
Supreme Court of the United States on the first day of the
204 next term thereof, to be held in the city of Washington, D. C.,
and from day to day thereafter, to abide the final order and judgment of said Supreme Court of the United States on said appeal, or, in lieu thereof, that said petitioner deposit the sum of one thousand dollars cash with the clerk of this court as security for his recognizance.

And it appearing to the court that said petitioner heretofore deposited the sum of one thousand dollars with the clerk of this court as security for his appearance to abide the judgment of this court on said writ of *habeas corpus*:

It is ordered that said one thousand dollars may be retained by the clerk of this court in lieu of the one thousand dollars to be deposited as security for his recognizance, to abide the order and judgment of the Supreme Court of the United States upon said petitioner's appeal from the judgment of this court.

And it is further ordered that the recognizance heretofore given by said petitioner for his appearance to abide the judgment of this court on said writ of *habeas corpus* is hereby discharged.

205 On the same day, to wit, the twenty-seventh day of June, 1899, there was filed in the clerk's office of said court a

certain certificate made by Judge James G. Jenkins; which said certificate is in the words and figures following, to wit:

Certificate of Judge.

UNITED STATES OF AMERICA, *Northern District of Illinois,* } ss:

In the Circuit Court of the United States for the Northern District of Illinois, Northern Division.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus.* No. 25236.

I, James G. Jenkins, one of the judges of the circuit court of the United States for the seventh judicial circuit, do hereby certify that upon the hearing of the above cause the construction and application of the first amendment to the Constitution of the United States was fairly raised by the petition of said petitioner for a writ of *habeas corpus*, and was argued upon the hearing of the same, and was by me determined.

And I do further certify that the application of clause 3 of section 8 of article 1 of the Constitution of the United States was fairly raised by the petition of said petitioner for a writ of *habeas corpus*, and was argued upon the hearing of the same, and was by me determined;

And that the power of the Congress of the United States to pass section 1 of the act of March 2, 1895, 2 Supp. R. S. U. S., 435, was fairly raised by the petition of said petitioner for a writ of *habeas corpus*, and was argued upon the hearing of the same, and was by me determined;

206 And that the constitutionality of section 1 of the act of March 2, 1895, 2 Supp. R. S. U. S., 435, was involved in said above cause, and was argued by the respective counsel upon the hearing of the same, and was by me determined.

JAS. G. JENKINS.

June 27, 1899.

(Endored:) Filed June 27, 1899. S. W. Burnham, clerk.

207 On the same day, to wit, the twenty-seventh day of June, 1899, there was filed in the clerk's office of said court a certain certificate by Judge Jenkins; which said certificate is in the words and figures following, to wit:

Certificate.

UNITED STATES OF AMERICA, *Northern District of Illinois,* } ss:

In the Circuit Court of the United States for the Northern District of Illinois, Northern Division. Adjourned May Term, A. D. 1899.

In the Matter of the Petition of CHARLES F. CHAMPION for a Writ of *Habeas Corpus.* No. 25236.

I, James G. Jenkins, one of the judges of the circuit court of the United States in and for the seventh judicial circuit, before whom the above-entitled cause was heard, do hereby certify that the said above cause was heard upon the petition of the petitioner, the return of the marshal thereto, the writ of certiorari, and the certified copy of the proce-dings before Lewis F. Mason, United States commissioner, and the arguments of the respective counsel, and nothing else.

JAS. G. JENKINS.

June 27, 1899.

(Endorsed:) Filed June 27, 1899. S. W. Burnham, clerk.

208 On the sixth day of July, 1899, there was filed in the clerk's office of said court in said entitled cause a certain opinion by Judge Jenkins; which said opinion is in the words and figures following, to wit:

Opinion.

United States Circuit Court, Northern District of Illinois.

In the Matter of the Petition of C. F. CHAMPION for a Writ of *Habeas Corpus.* No. 25236.

JENKINS, *Circuit Judge:*

First. For the purposes of this hearing upon the writ of *habeas corpus*, I hold that the act of 1895, entitled "An act for the suppression of lottery traffic through national and interstate commerce and the postal service, subject to the jurisdiction and laws of the United States," being chap. 191 of the Laws of 1895, 28th Stat., page 963, is constitutional and valid with reference to the provision prohibiting transportation of lottery tickets from one State into another.

Second. That the indictment found in the United States district court for the northern district of Texas which was offered in evidence before the commissioner upon the examination of Champion properly exhibits and charges an offense against the United States under section 5440 of the Revised Statutes.

Third. It was conceded by counsel upon both sides, and I therefore hold, for the purposes of this case, that that indictment so

offered in evidence before the commissioner established *prima facie* that the offense charged had been committed. It would have been sufficient for the Government to have rested its case before
209 the commissioner with respect to the commission of the offense upon this *prima facie* showing. That the prosecuting attorney went further and established by oral evidence the commission of an overt act in no way impairs the force and effect of the indictment as *prima facie* evidence of the conspiracy charged.

Fourth. I am of opinion that the evidence produced before the commissioner sufficiently identified the petitioner here, C. F. Champion, as the person charged in the indictment.

Fifth. There being, therefore, a *prima facie* case made with respect to the offense and the identity of the defendant, and no evidence opposing, I think the commissioner was warranted in holding the prisoner for transfer to the proper district for trial under indictment.

(Endorsed:) Filed July 6, 1899. S. W. Burnham, clerk.

210 And on the fourteenth day of July, 1899, came C. F. Champion and filed in the clerk's office of said court his recognizance; which said recognizance is in the words and figures following, to wit:

Recognizance of Charles F. Champion.

Circuit Court of the United States, Northern District of Illinois, Northern Division.

I, Charles F. Champion, do acknowledge myself to be indebted unto the United States of America in the sum of one thousand dollars, lawful money of the said United States, to be levied of our goods and chattels, lands and tenements, upon this condition:

That if the said Charles F. Champion shall personally be and appear before the Supreme Court of the said United States upon the first day of the next term thereof and from day to day during subsequent terms of the said court, there to answer to such matters and things as shall be objected against him on behalf of the said United States, and shall abide the order and judgment of the said court in that behalf, and not depart the said court without leave thereof, then this recognizance to be void; otherwise to remain in full force and virtue.

C. F. CHAMPION. [SEAL.]

Subscribed and acknowledged, this 14th day of July, 1899, before me—

S. W. BURNHAM,
Clerk U. S. District Court, North. Dist. Illinois.

Approved this 14th day of July, 1899.

S. W. BURNHAM, *Clerk.*

(Endorsed:) Filed July 14, 1899. S. W. Burnham, clerk.

211 Afterwards, to wit, on the fourteenth day of July, 1899, there was filed in the clerk's office of said court a certain waiver of citation by S. H. Bethea, United States attorney; which said waiver of citation is in words and figures following, to wit:

Waiver of U. S. Dist. Att'y of Citation on Appeal.

UNITED STATES OF AMERICA, } ss.:
Northern District of Illinois, }

In the Circuit Court of the United States, Northern District of Illinois, Northern Division, May Adjourned Term, 1899.

In the Matter of the Petition of CHARLES F. CHAMPION for Writ of *Habeas Corpus.*

I, S. H. Bethea, United States district attorney for the northern district of Illinois, do hereby certify that I appeared as attorney for the respondent, John C. Ames, United States marshal for the northern district of Illinois, in said above cause upon the hearing of the same, and I further certify that I have received notice of the perfecting of the appeal from the decision of said circuit court to the Supreme Court of the United States discharging the writ of *habeas corpus* and remanding petitioner to the custody of said Ames, and I hereby waive any notice of any citation or service of any summons or citation of or upon said appeal.

S. H. BETHEA, *U. S. Att'y.*

Chicago, July 13, 1899.

(Endorsed:) Filed July 14, 1899. S. W. Burnham, clerk.

212 NORTHERN DISTRICT OF ILLINOIS, } ss.:
Northern Division, }

I, S. W. Burnham, clerk of the circuit court of the United States for said northern district of Illinois, do hereby certify the above and foregoing to be a true and complete transcript of the record of all the proceedings had in said court in the cause entitled In the matter of the petition of Charles F. Champion for a writ of *habeas corpus*, as the same appear from the original records and files of said court now remaining in my custody and control.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at my office, in the city of Chicago, in said district, this 18th day of July, 1899.

[Seal of Circuit Court U. S., Northern Dist. Illinois, 1855.]

S. W. BURNHAM, *Clerk.*

213 In the Supreme Court of the United States, October Term, A. D. 1899.

CHARLES F. CHAMPION, Appellant, *vs.* JOHN C. AMES, Appellee.	Appeal from the Circuit Court of the United States, Northern District of Illinois, Northern Division.

It is hereby stipulated by and between the parties to the above-entitled cause that the clerk of said Supreme Court in printing the record may omit all matter in such record which is a transcript of the proceedings before the United States commissioner, Lewis F. Mason, in so far as the same is a repetition of the matter and exhibits contained in the petition for writ of *habeas corpus* and certiorari filed in said circuit court of the United States, and where such matter is a repetition it may be simply referred to in the printed record.

And it is further stipulated that the clerk of said Supreme Court may use as a part of the record to be printed by him the printed record used in the circuit court of appeals for the seventh circuit; which printed record is a part of the transcript of the record filed in this cause.

S. H. BETHEA, *U. S. Att'y.*
MORITZ ROSENTHAL &
JOSEPH B. DAVID,
Att'ys for Appellant.

214 *Matter in Record that is Duplicated.*

(1.) Complaint, Rec., page- 109–118, which is a repitition of p. 14–23.

(2.) Indictment, Rec., page- 119–146—repitition of p. 26–53.

(3.) Transcript of record circuit court of appeals, Rec., p. 144–190—repitition of p. 54 to 96.

(4.) Warrant of commitment, Rec., p. 195, 196—repitition of p. 12, 13.

(5.) Warrant of apprehension, Rec., p. 191, 192—repitition of p. 24, 25.

[Endorsed:] Supreme Court of the United States. Charles F. Champion *et al.* appellant-, *vs.* John C. Ames, appellee. Stipulation on printing of record.

215 [Endorsed:] File No., 17,474. Supreme Court U. S., October term, 1899. Term No., 360. Chas. F. Champion, app't, *vs.* Jno. C. Ames, U. S. marshal. Stipulation as to printing record. Filed July 25, 1899.

Endorsed on cover: File No., 17,474. N. Illinois C. C. U. S. Term No., 360. Charles F. Champion, appellant, *vs.* John C. Ames, United States marshal. Filed July 25th, 1899.